

Monday
June 17, 1985



Federal Register

Briefings on How To Use the Federal Register—

For information on briefings in Chicago, IL, New York, NY, and Washington, DC, see announcement on the inside cover of this issue.

Selected Subjects

Air Pollution Control

Environmental Protection Agency

Banks, Banking

Federal Reserve System

Drugs

Food and Drug Administration

Indians—Enrollment

Indian Affairs Bureau

Marine Safety

Coast Guard

Meat Inspection

Food Safety and Inspection Service

Medicare

Health Care Financing Administration

Mortgage Insurance

Housing and Urban Development Department



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THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** The Office of the Federal Register.
- WHAT:** Free public briefings (approximately 2 1/2 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
 2. The relationship between the Federal Register and Code of Federal Regulations.
 3. The important elements of typical Federal Register documents.
 4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

CHICAGO, IL

- WHEN:** July 8 and 9; at 9 a.m. (identical sessions)
- WHERE:** Room 1654, Insurance Exchange Building, 175 W. Jackson Blvd., Chicago, IL.
- RESERVATIONS:** Call the Chicago Federal Information Center, 312-353-4242.

NEW YORK, NY

- WHEN:** July 9 and 10; at 9 a.m. (identical sessions)
- WHERE:** 2T Conference Room, Second Floor, Veterans Administration Building, 252 Seventh Avenue (between W. 24th and W. 25th Streets), New York, NY.
- RESERVATIONS:** Call Arlene Shapiro or Steve Colon, New York Federal Information Center, 212-264-4810.

WASHINGTON, DC

- WHEN:** September (two dates to be announced later).

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Reader Aids

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Title 3—

The President

Executive Order 12519 of June 13, 1985

Amending the Generalized System of Preferences

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Title V of the Trade Act of 1974 (the Trade Act) (19 U.S.C. 2461 *et seq.*), as amended, section 604 of the Trade Act (19 U.S.C. 2483), and section 503(a)(2)(A) of the Trade Agreements Act of 1979 (93 Stat. 251), in order to modify, as provided by sections 504(a) and (c) of the Trade Act (19 U.S.C. 2464 (a) and (c)), the limitations on preferential treatment for eligible articles from countries designated as beneficiary developing countries; and to adjust the original designation of eligible articles after taking into account information and advice received in fulfillment of sections 131-134 and 503(a) of the Trade Act (19 U.S.C. 2151-2154, 2463), it is hereby ordered as follows:

Section 1. In order to subdivide and amend the nomenclature of existing items for purposes of the Generalized System of Preferences (GSP), the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) are modified as provided in Annex I to this Order.

Sec. 2. Annex II of Executive Order No. 11888, as amended, listing articles that are eligible for benefits of the GSP when imported from any designated beneficiary developing country, is amended as set forth in Annex II to this Order.

Sec. 3. Annex III of Executive Order No. 11888, as amended, listing articles that are eligible for benefits of the GSP when imported from all designated beneficiary countries except those specified in General Headnote 3(c)(iii) of the TSUS, is amended as set forth in Annex III to this Order.

Sec. 4. General Headnote 3(c)(iii) of the TSUS, listing articles that are eligible for benefits of the GSP except when imported from the beneficiary countries listed opposite those articles, is modified as set forth in Annex IV to this Order.

Sec. 5. In order to provide staged reductions in the rates of duty for those new TSUS items created by Annex I to this Order, Annex III to Proclamation 4707 and Annex III to Proclamation 4768 are amended as set forth in Annex V to this Order.

Sec. 6. Whenever the column 1 rate of duty in the TSUS for any item specified in Annex I to this Order is reduced to the same level as, or to a lower level than, the corresponding rate of duty in the column entitled "LDDC" by Annex I to this Order, the rate of duty in the column entitled "LDDC" for such item shall be deleted from the TSUS.

Sec. 7. Annexes III and IV of Proclamation 4707 and Annexes II, III, and IV of Proclamation 4768 are superseded to the extent inconsistent with this Order.

Sec. 8. General Headnote 3(c)(i) of the TSUS, listing the designated beneficiary developing countries for purposes of the GSP, is modified as provided in Annex VI to this Order.

Sec. 9 (a). The amendments made by the sections designated "A" in the Annexes to this Order, by section C of Annex I, by section B of Annex V, and by Annex VI shall be effective with respect to articles both: (1) imported on or after January 1, 1976, and (2) entered, or withdrawn from warehouse for

consumption, on and after the date that is fifteen days after the date of publication of this Order in the Federal Register.

(b) Unless otherwise specified, the remaining amendments made by this Order shall be effective with respect to articles both: (1) imported on or after January 1, 1976, and (2) entered, or withdrawn from warehouse for consumption, on or after July 1, 1985.

Ronald Reagan

THE WHITE HOUSE,

June 13, 1985.

Billing code 3195-01-M

ANNEX I

GENERAL MODIFICATIONS OF THE TARIFF SCHEDULES OF THE UNITED STATES

Notes:

1. Bracketed matter is included to assist in the understanding of ordered modifications.
2. The following items, with or without preceding superior descriptions, supersede matter now in the Tariff Schedules of the United States (TSUS). The items and superior descriptions are set forth in columnar form, and material in such columns is inserted in the columns of the TSUS designated "Item", "Articles", "Rates of Duty 1", "Rates of Duty LDDC", and "Rates of Duty 2", respectively.

Subject to the above notes the TSUS are modified as follows:

Section A. Effective as to articles entered, or withdrawn from warehouse for consumption, on and after the date which is fifteen days after the date of publication in the Federal Register.

1.(a) Item 408.22 is superseded by:

[Products...:]

[Pesticides:]

[Not...:]

[Herbicides...:]

| | | | | |
|---------|--|---------------|---------------|----------------------------------|
| "408.18 | α,α,α -Trifluoro-2,6-dinitro- N,N-dipropyl-p-toluidine (Trifluralin)..... | [See Annex V] | 13.5% ad val. | 7c per lb. + 48.5% ad val. |
|---------|--|---------------|---------------|----------------------------------|

[Other:]

| | | | | |
|--------|---|---------------|---------------|-----------------------------------|
| 408.19 | Products provided for in the Chemical Appendix to the Tariff Schedules..... | [See Annex V] | 13.5% ad val. | 7c per lb. + 48.5% ad val." |
|--------|---|---------------|---------------|-----------------------------------|

(b) Conforming change: Item 408.21 is redesignated as 408.17.

2. Item 417.44 is superseded by:

[Ammonium...:]

| | | | | |
|---------|--------------|---------------|--------------|-------------|
| "417.23 | Bromide..... | [See Annex V] | 3.1% ad val. | 25% ad val. |
|---------|--------------|---------------|--------------|-------------|

[Articles provided for in items 417.24 thru
417.42]

| | | | | |
|--------|------------|---------------|--------------|--------------|
| 417.45 | Other..... | [See Annex V] | 3.1% ad val. | 25% ad val." |
|--------|------------|---------------|--------------|--------------|

3. Item 418.32 is superseded by:

[Calcium...:]

| | | | | |
|---------|--------------|---------------|------|-------------|
| "418.13 | Bromide..... | [See Annex V] | Free | 25% ad val. |
|---------|--------------|---------------|------|-------------|

[Articles provided for in items 418.14 thru
418.30]

| | | | | |
|--------|------------|---------------|------|--------------|
| 418.35 | Other..... | [See Annex V] | Free | 25% ad val." |
|--------|------------|---------------|------|--------------|

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4.(a) Item 429.48 is superseded by:

[Halogenated...:]

[Other:]

| | | | | |
|---------|--|---------------|--------------|-------------|
| "429.49 | Acetylene tetrabromide; Alkyl bromides; Bromochloromethane; Bromotrifluoromethane; Chlorobromodifluoromethane; 1,3,5,7,9,11-hexabromocyclododecane; Methylene dibromide; and Vinyl bromide..... | [See Annex V] | 3.7% ad val. | 25% ad val. |
| 429.51 | Other..... | [See Annex V] | 3.7% ad val. | 25% ad val. |

(b) Conforming change: Item 429.50 is redesignated as 429.53.

5. Item 511.61 is superseded by:

[Articles,...:]

[Other,...:]

[Other:]

"Not decorated:

| | | | | |
|--------|----------------------|---------------|--------------|-------------|
| 511.64 | Block and brick..... | [See Annex V] | 4.9% ad val. | 30% ad val. |
| 511.65 | Other..... | [See Annex V] | 4.9% ad val. | 30% ad val. |

6. Item 772.30 is superseded by:

"Wearing apparel (including rainwear) not specially
provided for, of rubber or plastics:

| | | | | |
|--------|--|---------------|------------|-------------|
| 772.29 | Infants' pants, wholly of rubber or plastics.... | [See Annex V] | 5% ad val. | 25% ad val. |
| 772.31 | Other..... | [See Annex V] | 5% ad val. | 25% ad val. |

Section B. Effective with respect to articles entered, or withdrawn from warehouse for consumption,
on and after January 1, 1988.

1. Items 408.19 and 408.23 and the superior heading thereto are superseded by:

[Products...:]

[Pesticides:]

[Not...:]

[Herbicides...:]

| | | | |
|---------|------------|---------------|-----------------------------------|
| "408.20 | Other..... | 13.5% ad val. | 7c per lb. + 48.5% ad val." |
|---------|------------|---------------|-----------------------------------|

Section C. Effective as to articles both exported to the United States on and after July 1, 1980, and entered, or withdrawn from warehouse for consumption, on and after a date (published in the Federal Register), as determined appropriate by the United States Trade Representative. These modifications shall remain in effect unless withdrawn, suspended, or modified by the President.

1. The article description for item 408.17 is modified by adding the following in alphabetical sequence:

"5-Amino-4-chloro-alpha-phenyl-3-pyridazinone;"

"2-tert-Butyl-4-(2,4-dichloro-5-isopropoxy-phenyl)- Δ^2 -1,3,4-oxadiazolin-5-one;"

"4-(4-Chloro-2-methylphenoxy)butyric acid;"

ANNEX II

ARTICLES THAT ARE ELIGIBLE FOR PREFERENTIAL
TREATMENT WHEN IMPORTED FROM ANY BENEFICIARY
DEVELOPING COUNTRY

Section A. Effective as to articles entered, or withdrawn from warehouse for consumption, on and after the date which is fifteen days after the date of publication in the Federal Register, Annex II of Executive Order No. 11888 of November 24, 1975, as amended, is further amended --

(1) by deleting the following TSUS item numbers:

| | | |
|--------|--------|--------|
| 408.21 | 418.32 | 653.00 |
| 408.22 | 429.48 | 657.35 |
| 413.24 | 511.61 | 680.14 |
| 417.44 | 646.92 | 771.41 |

(2) by inserting in numerical sequence the following TSUS item numbers:

| | | |
|--------|--------|--------|
| 141.30 | 418.35 | 720.34 |
| 408.17 | 429.51 | 772.29 |
| 408.19 | 511.65 | |
| 417.45 | 685.20 | |

Section B. Effective as to articles entered, or withdrawn from warehouse for consumption, on and after July 1, 1985, Annex II to Executive Order No. 11888 of November 24, 1975, as amended by section A herein, is further amended by substituting therefor the following new Annex II.

| | | | |
|--------|--------|--------|--------|
| 100.25 | 112.40 | 121.64 | 131.35 |
| 100.31 | 112.94 | 123.50 | 131.80 |
| 105.30 | 113.01 | 124.20 | 132.55 |
| 105.60 | 113.30 | 124.25 | 135.12 |
| 105.84 | 113.40 | 124.30 | 135.14 |
| 106.70 | 113.50 | 124.40 | 135.30 |
| 106.75 | 113.60 | 124.60 | 135.41 |
| 107.10 | 114.04 | 124.65 | 135.50 |
| 107.15 | 114.06 | 124.70 | 135.60 |
| 107.20 | 114.25 | 124.80 | 135.70 |
| 107.25 | 114.55 | 125.01 | 135.80 |
| 107.40 | 117.65 | 125.10 | 135.99 |
| 107.45 | 117.67 | 125.15 | 136.00 |
| 107.65 | 118.35 | 125.20 | 136.10 |
| 107.70 | 118.45 | 125.32 | 136.40 |
| 107.78 | 119.50 | 125.34 | 136.50 |
| 107.80 | 119.55 | 125.50 | 136.60 |
| 110.28 | 120.17 | 125.82 | 136.80 |
| 110.35 | 121.10 | 125.84 | 136.90 |
| 110.45 | 121.15 | 126.01 | 136.92 |
| 111.10 | 121.25 | 126.41 | 136.95 |
| 111.15 | 121.30 | 127.10 | 136.97 |
| 111.18 | 121.35 | 130.20 | 137.02 |
| 111.56 | 121.52 | 130.30 | 137.04 |
| 111.60 | 121.54 | 130.32 | 137.75 |
| 112.03 | 121.55 | 130.45 | 137.79 |
| 112.21 | 121.56 | 130.63 | 137.88 |
| 112.36 | 121.62 | 131.20 | 137.89 |

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| 138.35 | 148.25 | 161.84 | 176.30 |
| 138.41 | 148.30 | 161.88 | 176.49 |
| 140.10 | 148.35 | 161.92 | 176.50 |
| 140.11 | 148.52 | 161.96 | 176.70 |
| 140.14 | 148.65 | 162.03 | 177.12 |
| 140.16 | 148.77 | 162.07 | 177.16 |
| 140.20 | 148.81 | 162.11 | 177.22 |
| 140.21 | 149.15 | 162.15 | 177.24 |
| 140.35 | 149.50 | 165.55 | 177.26 |
| 140.38 | 149.60 | 166.10 | 177.40 |
| 140.46 | 152.00 | 166.20 | 177.58 |
| 140.54 | 152.05 | 166.30 | 177.62 |
| 140.56 | 152.30 | 166.40 | 177.69 |
| 140.70 | 152.40 | 167.15 | 177.72 |
| 140.76 | 152.43 | 167.25 | 178.30 |
| 141.05 | 152.54 | 167.34 | 182.05 |
| 141.20 | 152.58 | 167.40 | 182.10 |
| 141.30 | 152.60 | 167.50 | 182.11 |
| 141.35 | 152.72 | 168.12 | 182.15 |
| 141.45 | 152.78 | 168.13 | 182.20 |
| 141.50 | 153.03 | 168.14 | 182.30 |
| 141.82 | 153.05 | 168.16 | 182.32 |
| 141.85 | 153.16 | 168.36 | 182.35 |
| 141.87 | 153.20 | 168.37 | 182.36 |
| 141.98 | 153.24 | 168.39 | 182.40 |
| 144.14 | 153.28 | 168.41 | 182.45 |
| 145.02 | 153.32 | 168.42 | 182.46 |
| 145.09 | 154.10 | 168.54 | 182.49 |
| 145.24 | 154.40 | 168.57 | 182.52 |
| 145.26 | 154.43 | 168.59 | 182.58 |
| 145.28 | 154.53 | 168.61 | 182.90 |
| 145.30 | 154.60 | 168.96 | 182.96 |
| 145.50 | 155.30 | 168.98 | 183.01 |
| 145.52 | 155.35 | 169.04 | 183.05 |
| 145.53 | 155.40 | 169.07 | 184.50 |
| 145.54 | 155.60 | 169.08 | 184.51 |
| 145.65 | 155.75 | 169.32 | 184.53 |
| 145.70 | 156.25 | 169.37 | 184.58 |
| 146.12 | 156.30 | 169.38 | 184.65 |
| 146.42 | 156.40 | 169.39 | 186.10 |
| 146.66 | 156.47 | 169.42 | 186.15 |
| 146.69 | 157.10 | 169.44 | 186.20 |
| 146.74 | 161.05 | 169.47 | 186.30 |
| 146.78 | 161.06 | 169.48 | 186.40 |
| 146.82 | 161.37 | 169.49 | 186.50 |
| 146.87 | 161.43 | 169.58 | 188.30 |
| 147.21 | 161.45 | 169.59 | 188.34 |
| 147.29 | 161.53 | 170.10 | 188.50 |
| 147.33 | 161.57 | 170.15 | 190.10 |
| 147.36 | 161.60 | 170.63 | 190.25 |
| 147.53 | 161.61 | 170.67 | 190.68 |
| 147.54 | 161.65 | 170.70 | 190.85 |
| 147.80 | 161.69 | 175.36 | 191.18 |
| 147.85 | 161.71 | 176.01 | 192.45 |
| 148.08 | 161.75 | 176.14 | 192.85 |

ANNEX II

-3-

Sec. B (con.)

| | | | |
|--------|--------|--------|--------|
| 193.10 | 240.19 | 253.20 | 273.50 |
| 200.06 | 240.21 | 253.25 | 273.55 |
| 200.45 | 240.30 | 253.30 | 273.65 |
| 200.91 | 240.32 | 253.35 | 273.70 |
| 202.38 | 240.34 | 253.40 | 273.75 |
| 202.54 | 240.36 | 253.45 | 273.85 |
| 202.56 | 240.38 | 254.05 | 273.90 |
| 202.60 | 240.40 | 254.09 | 273.95 |
| 202.66 | 240.50 | 254.15 | 274.00 |
| 203.10 | 240.52 | 254.18 | 274.05 |
| 203.20 | 240.54 | 254.20 | 274.10 |
| 203.30 | 240.56 | 254.25 | 274.15 |
| 204.05 | 240.58 | 254.30 | 274.20 |
| 204.10 | 240.60 | 254.35 | 274.23 |
| 204.20 | 245.00 | 254.40 | 274.27 |
| 204.30 | 245.10 | 254.42 | 274.29 |
| 204.35 | 245.45 | 254.44 | 274.33 |
| 206.30 | 245.50 | 254.46 | 274.35 |
| 206.45 | 245.60 | 254.48 | 274.60 |
| 206.47 | 245.70 | 254.50 | 274.65 |
| 206.50 | 245.80 | 254.54 | 274.70 |
| 206.52 | 251.10 | 254.56 | 274.75 |
| 206.53 | 251.15 | 254.58 | 274.80 |
| 206.54 | 251.20 | 254.63 | 274.85 |
| 206.65 | 251.25 | 254.65 | 274.90 |
| 206.95 | 251.30 | 254.70 | 304.10 |
| 220.10 | 251.45 | 254.80 | 304.12 |
| 220.15 | 252.05 | 254.85 | 304.14 |
| 220.20 | 252.10 | 254.90 | 304.22 |
| 220.25 | 252.13 | 254.95 | 304.40 |
| 220.31 | 252.15 | 256.05 | 304.44 |
| 220.35 | 252.17 | 256.10 | 304.48 |
| 220.36 | 252.20 | 256.13 | 305.20 |
| 220.37 | 252.25 | 256.15 | 305.22 |
| 220.39 | 252.27 | 256.20 | 305.28 |
| 220.41 | 252.30 | 256.25 | 305.30 |
| 220.47 | 252.35 | 256.30 | 305.40 |
| 220.48 | 252.40 | 256.35 | 305.50 |
| 220.50 | 252.42 | 256.40 | 306.11 |
| 222.30 | 252.45 | 256.42 | 306.42 |
| 222.32 | 252.50 | 256.44 | 306.53 |
| 222.34 | 252.57 | 256.48 | 306.60 |
| 222.36 | 252.59 | 256.52 | 306.61 |
| 222.40 | 252.61 | 256.54 | 306.70 |
| 222.41 | 252.63 | 256.56 | 306.71 |
| 222.42 | 252.70 | 256.58 | 306.72 |
| 222.44 | 252.73 | 256.65 | 306.80 |
| 222.55 | 252.75 | 256.67 | 306.81 |
| 222.57 | 252.77 | 256.70 | 306.82 |
| 222.60 | 252.81 | 256.75 | 307.02 |
| 222.62 | 252.84 | 256.80 | 307.04 |
| 222.64 | 252.86 | 256.84 | 307.06 |
| 240.10 | 252.90 | 256.90 | 307.08 |
| 240.12 | 253.05 | 270.45 | 307.16 |
| 240.14 | 253.10 | 270.50 | 308.06 |
| 240.16 | 253.15 | 273.30 | 308.10 |

ANNEX II

-4-

Sec. B (con.)

| | | | |
|--------|--------|--------|--------|
| 308.16 | 361.21 | 406.96 | 410.84 |
| 308.18 | 361.23 | 407.00 | 410.88 |
| 308.20 | 361.26 | 407.09 | 410.92 |
| 308.30 | 361.43 | 408.00 | 410.96 |
| 308.35 | 361.53 | 408.08 | 411.00 |
| 308.45 | 361.85 | 408.12 | 411.04 |
| 308.47 | 363.02 | 408.16 | 411.08 |
| 308.51 | 364.09 | 408.17 | 411.10 |
| 308.55 | 364.14 | 408.19 | 411.20 |
| 308.80 | 364.18 | 408.23 | 411.24 |
| 308.90 | 364.21 | 408.24 | 411.26 |
| 312.10 | 364.25 | 408.28 | 411.53 |
| 312.30 | 364.35 | 408.29 | 411.64 |
| 312.40 | 365.05 | 408.31 | 411.80 |
| 312.50 | 365.14 | 408.32 | 411.82 |
| 315.25 | 365.15 | 408.36 | 411.91 |
| 315.30 | 365.25 | 408.38 | 412.22 |
| 315.55 | 365.29 | 408.41 | 412.31 |
| 315.75 | 365.72 | 408.44 | 412.67 |
| 315.80 | 365.76 | 408.48 | 412.72 |
| 315.85 | 365.84 | 408.54 | 412.76 |
| 315.90 | 365.91 | 408.61 | 412.80 |
| 315.95 | 366.84 | 408.64 | 412.84 |
| 316.50 | 367.28 | 408.68 | 412.88 |
| 316.70 | 367.31 | 408.72 | 412.92 |
| 319.01 | 370.17 | 408.76 | 412.96 |
| 319.03 | 370.19 | 408.81 | 413.00 |
| 319.07 | 370.22 | 408.84 | 413.04 |
| 335.50 | 372.60 | 408.88 | 413.08 |
| 335.70 | 372.65 | 408.92 | 413.12 |
| 335.85 | 385.95 | 408.96 | 413.16 |
| 337.20 | 386.13 | 409.02 | 413.20 |
| 337.72 | 387.25 | 409.06 | 413.28 |
| 339.10 | 387.32 | 409.10 | 413.30 |
| 347.20 | 387.33 | 409.14 | 413.32 |
| 347.28 | 390.16 | 409.18 | 413.36 |
| 347.30 | 402.00 | 409.22 | 413.40 |
| 347.35 | 402.04 | 409.26 | 413.50 |
| 347.72 | 402.08 | 409.28 | 413.51 |
| 347.75 | 402.12 | 409.30 | 415.20 |
| 355.04 | 402.16 | 409.34 | 415.27 |
| 355.20 | 402.20 | 409.38 | 415.50 |
| 355.42 | 402.24 | 409.42 | 416.05 |
| 355.55 | 402.28 | 410.36 | 416.10 |
| 356.25 | 402.32 | 410.40 | 416.30 |
| 356.40 | 403.27 | 410.44 | 416.45 |
| 358.06 | 404.04 | 410.48 | 417.10 |
| 358.14 | 404.42 | 410.52 | 417.14 |
| 360.04 | 405.02 | 410.56 | 417.16 |
| 360.35 | 405.31 | 410.60 | 417.18 |
| 360.36 | 406.16 | 410.64 | 417.20 |
| 360.44 | 406.37 | 410.66 | 417.22 |
| 360.77 | 406.47 | 410.68 | 417.24 |
| 360.79 | 406.72 | 410.72 | 417.26 |
| 360.82 | 406.81 | 410.76 | 417.28 |
| 360.84 | 406.86 | 410.80 | 417.32 |

ANNEX II

-5-

Sec. B (con.)

| | | | |
|--------|--------|--------|--------|
| 417.34 | 419.60 | 421.86 | 425.78 |
| 417.36 | 419.70 | 421.90 | 425.82 |
| 417.38 | 419.74 | 422.00 | 425.84 |
| 417.42 | 419.76 | 422.10 | 425.86 |
| 417.45 | 419.80 | 422.12 | 425.87 |
| 417.50 | 419.82 | 422.14 | 425.88 |
| 417.52 | 419.84 | 422.20 | 425.94 |
| 417.54 | 419.90 | 422.24 | 426.00 |
| 417.64 | 420.00 | 422.26 | 426.04 |
| 417.70 | 420.02 | 422.30 | 426.08 |
| 417.72 | 420.04 | 422.58 | 426.10 |
| 417.74 | 420.06 | 422.60 | 426.12 |
| 417.76 | 420.08 | 422.62 | 426.14 |
| 417.78 | 420.14 | 422.70 | 426.18 |
| 417.80 | 420.16 | 422.72 | 426.22 |
| 417.90 | 420.18 | 422.74 | 426.24 |
| 417.92 | 420.20 | 422.76 | 426.26 |
| 418.00 | 420.22 | 422.78 | 426.28 |
| 418.14 | 420.24 | 422.80 | 426.32 |
| 418.18 | 420.26 | 422.82 | 426.34 |
| 418.22 | 420.28 | 422.90 | 426.36 |
| 418.24 | 420.30 | 422.92 | 426.42 |
| 418.26 | 420.34 | 422.94 | 426.44 |
| 418.28 | 420.36 | 423.00 | 426.46 |
| 418.35 | 420.40 | 423.80 | 426.52 |
| 418.40 | 420.54 | 423.84 | 426.54 |
| 418.42 | 420.60 | 423.86 | 426.56 |
| 418.44 | 420.68 | 423.88 | 426.58 |
| 418.50 | 420.70 | 423.94 | 426.62 |
| 418.52 | 420.78 | 423.96 | 426.64 |
| 418.60 | 420.82 | 425.00 | 426.72 |
| 418.62 | 420.84 | 425.02 | 426.76 |
| 418.68 | 420.86 | 425.04 | 426.77 |
| 418.72 | 420.88 | 425.06 | 426.78 |
| 418.74 | 420.94 | 425.08 | 426.82 |
| 418.76 | 420.98 | 425.09 | 426.84 |
| 418.78 | 421.04 | 425.10 | 426.86 |
| 418.80 | 421.06 | 425.12 | 426.88 |
| 418.94 | 421.08 | 425.14 | 426.92 |
| 419.00 | 421.10 | 425.18 | 426.94 |
| 419.02 | 421.14 | 425.20 | 426.96 |
| 419.04 | 421.16 | 425.22 | 426.98 |
| 419.10 | 421.18 | 425.24 | 427.02 |
| 419.20 | 421.22 | 425.26 | 427.04 |
| 419.22 | 421.34 | 425.28 | 427.06 |
| 419.24 | 421.36 | 425.32 | 427.08 |
| 419.28 | 421.44 | 425.34 | 427.12 |
| 419.32 | 421.46 | 425.36 | 427.14 |
| 419.34 | 421.52 | 425.38 | 427.16 |
| 419.38 | 421.54 | 425.41 | 427.18 |
| 419.40 | 421.60 | 425.42 | 427.20 |
| 419.42 | 421.62 | 425.52 | 427.22 |
| 419.44 | 421.72 | 425.70 | 427.24 |
| 419.50 | 421.74 | 425.72 | 427.25 |
| 419.52 | 421.76 | 425.74 | 427.28 |
| 419.54 | 421.84 | 425.76 | 427.30 |

ANNEX II

-6-

Sec. B (con.)

| | | | |
|--------|--------|--------|--------|
| 427.40 | 429.00 | 437.69 | 460.35 |
| 427.42 | 429.10 | 437.70 | 460.45 |
| 427.44 | 429.12 | 437.72 | 460.50 |
| 427.45 | 429.19 | 437.74 | 460.55 |
| 427.46 | 429.22 | 437.82 | 460.60 |
| 427.48 | 429.24 | 437.84 | 460.65 |
| 427.53 | 429.26 | 437.86 | 460.70 |
| 427.54 | 429.29 | 438.01 | 460.75 |
| 427.56 | 429.30 | 438.02 | 460.80 |
| 427.58 | 429.32 | 439.30 | 460.85 |
| 427.60 | 429.34 | 439.50 | 460.90 |
| 427.62 | 429.38 | 440.00 | 461.05 |
| 427.64 | 429.42 | 445.05 | 461.10 |
| 427.70 | 429.44 | 445.10 | 461.15 |
| 427.72 | 429.46 | 445.15 | 461.20 |
| 427.74 | 429.47 | 445.20 | 461.30 |
| 427.82 | 429.51 | 445.25 | 461.35 |
| 427.84 | 429.60 | 445.30 | 461.40 |
| 427.92 | 429.70 | 445.35 | 461.45 |
| 427.94 | 429.85 | 445.44 | 465.05 |
| 427.97 | 429.95 | 445.46 | 465.10 |
| 427.98 | 432.15 | 445.48 | 465.15 |
| 428.04 | 432.25 | 445.52 | 465.20 |
| 428.06 | 435.10 | 445.54 | 465.25 |
| 428.12 | 436.00 | 445.56 | 465.30 |
| 428.20 | 437.02 | 445.75 | 465.35 |
| 428.22 | 437.04 | 446.10 | 465.40 |
| 428.24 | 437.06 | 446.12 | 465.45 |
| 428.26 | 437.10 | 446.15 | 465.50 |
| 428.30 | 437.12 | 446.30 | 465.55 |
| 428.32 | 437.13 | 450.10 | 465.60 |
| 428.34 | 437.14 | 450.20 | 465.65 |
| 428.36 | 437.16 | 452.24 | 465.70 |
| 428.38 | 437.18 | 452.28 | 465.75 |
| 428.40 | 437.20 | 452.48 | 465.80 |
| 428.41 | 437.22 | 452.54 | 465.85 |
| 428.42 | 437.30 | 452.58 | 465.87 |
| 428.44 | 437.32 | 452.80 | 465.90 |
| 428.47 | 437.36 | 455.02 | 465.92 |
| 428.50 | 437.38 | 455.06 | 465.95 |
| 428.52 | 437.40 | 455.16 | 466.05 |
| 428.54 | 437.44 | 455.18 | 466.10 |
| 428.58 | 437.47 | 455.20 | 466.15 |
| 428.62 | 437.49 | 455.22 | 466.20 |
| 428.64 | 437.50 | 455.24 | 466.25 |
| 428.66 | 437.51 | 455.30 | 466.30 |
| 428.68 | 437.52 | 455.32 | 470.18 |
| 428.72 | 437.54 | 455.34 | 472.06 |
| 428.80 | 437.55 | 455.36 | 472.10 |
| 428.82 | 437.56 | 455.38 | 472.12 |
| 428.84 | 437.57 | 455.44 | 472.14 |
| 428.86 | 437.58 | 455.46 | 472.24 |
| 428.88 | 437.60 | 460.10 | 472.30 |
| 428.90 | 437.64 | 460.15 | 472.40 |
| 428.92 | 437.65 | 460.25 | 472.42 |
| 428.94 | 437.68 | 460.30 | 472.44 |

ANNEX II

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Sec. B (con.)

| | | | |
|--------|--------|--------|--------|
| 472.48 | 485.30 | 513.81 | 520.37 |
| 472.50 | 490.05 | 513.84 | 520.39 |
| 473.02 | 490.10 | 513.94 | 520.51 |
| 473.06 | 490.12 | 514.21 | 520.54 |
| 473.10 | 490.24 | 514.24 | 520.61 |
| 473.12 | 490.30 | 514.34 | 520.71 |
| 473.14 | 490.32 | 514.41 | 521.87 |
| 473.16 | 490.40 | 514.44 | 522.41 |
| 473.18 | 490.42 | 514.51 | 522.45 |
| 473.19 | 490.44 | 514.54 | 522.61 |
| 473.20 | 490.46 | 514.57 | 522.71 |
| 473.24 | 490.48 | 514.61 | 522.81 |
| 473.28 | 490.50 | 514.65 | 523.31 |
| 473.30 | 490.90 | 514.81 | 523.33 |
| 473.32 | 490.92 | 515.11 | 523.37 |
| 473.36 | 490.94 | 515.14 | 523.51 |
| 473.38 | 493.10 | 515.24 | 523.61 |
| 473.44 | 493.14 | 515.31 | 523.91 |
| 473.46 | 493.17 | 515.34 | 523.94 |
| 473.48 | 493.18 | 515.51 | 531.01 |
| 473.50 | 493.20 | 515.54 | 531.04 |
| 473.54 | 493.22 | 515.61 | 531.11 |
| 473.58 | 493.25 | 515.64 | 531.21 |
| 473.60 | 493.26 | 516.21 | 531.24 |
| 473.62 | 493.30 | 516.24 | 531.33 |
| 473.66 | 493.46 | 516.71 | 531.35 |
| 473.70 | 493.47 | 516.73 | 531.37 |
| 473.72 | 493.50 | 516.74 | 531.39 |
| 473.74 | 493.67 | 516.76 | 532.14 |
| 473.76 | 493.68 | 516.91 | 532.41 |
| 473.78 | 493.82 | 516.94 | 532.61 |
| 473.80 | 494.04 | 517.11 | 533.11 |
| 473.82 | 494.40 | 517.21 | 533.15 |
| 473.84 | 494.52 | 517.24 | 533.54 |
| 473.86 | 494.60 | 517.51 | 534.11 |
| 473.88 | 495.05 | 517.61 | 534.21 |
| 473.90 | 495.10 | 517.71 | 534.31 |
| 474.02 | 495.15 | 517.74 | 534.74 |
| 474.04 | 495.20 | 517.81 | 534.76 |
| 474.06 | 511.11 | 517.91 | 534.81 |
| 474.08 | 511.25 | 518.21 | 534.87 |
| 474.20 | 511.31 | 518.41 | 534.97 |
| 474.22 | 511.41 | 518.51 | 535.11 |
| 474.26 | 511.51 | 519.11 | 535.12 |
| 474.30 | 511.65 | 519.14 | 535.13 |
| 474.35 | 511.71 | 519.31 | 535.14 |
| 474.40 | 512.24 | 519.37 | 535.21 |
| 474.42 | 512.31 | 519.51 | 535.24 |
| 474.44 | 512.35 | 519.83 | 535.27 |
| 474.46 | 512.41 | 519.84 | 535.41 |
| 474.50 | 512.44 | 519.86 | 536.11 |
| 474.62 | 513.21 | 519.91 | 536.15 |
| 475.55 | 513.36 | 519.93 | 540.11 |
| 475.60 | 513.41 | 519.95 | 540.13 |
| 485.10 | 513.51 | 519.97 | 540.14 |
| 485.20 | 513.74 | 520.31 | 540.15 |

ANNEX II

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Sec. B (con.)

| | | | |
|--------|--------|--------|--------|
| 540.21 | 547.11 | 610.58 | 618.06 |
| 540.37 | 547.13 | 610.62 | 618.10 |
| 540.41 | 547.15 | 610.63 | 618.17 |
| 540.43 | 547.21 | 610.66 | 618.20 |
| 540.47 | 547.31 | 610.71 | 618.22 |
| 540.51 | 547.37 | 610.84 | 618.25 |
| 540.55 | 547.41 | 610.86 | 618.27 |
| 540.61 | 547.43 | 610.89 | 618.29 |
| 540.63 | 547.51 | 610.90 | 618.40 |
| 540.65 | 547.53 | 610.92 | 618.42 |
| 540.67 | 547.55 | 612.02 | 618.47 |
| 540.71 | 548.01 | 612.05 | 620.08 |
| 541.11 | 548.03 | 612.08 | 620.10 |
| 541.21 | 548.05 | 612.10 | 620.12 |
| 541.31 | 601.33 | 612.15 | 620.16 |
| 542.57 | 601.54 | 612.17 | 620.20 |
| 542.67 | 602.20 | 612.20 | 620.22 |
| 542.71 | 602.28 | 612.30 | 620.26 |
| 542.73 | 603.10 | 612.31 | 620.30 |
| 542.75 | 603.15 | 612.32 | 620.40 |
| 542.77 | 603.25 | 612.34 | 620.42 |
| 542.92 | 603.30 | 612.35 | 620.46 |
| 542.94 | 603.45 | 612.36 | 620.50 |
| 542.96 | 603.49 | 612.38 | 622.15 |
| 542.98 | 603.50 | 612.39 | 622.17 |
| 543.11 | 603.54 | 612.40 | 622.20 |
| 544.11 | 603.55 | 612.41 | 622.22 |
| 544.14 | 603.70 | 612.43 | 622.25 |
| 544.16 | 605.03 | 612.44 | 622.35 |
| 544.18 | 605.05 | 612.45 | 622.40 |
| 544.31 | 605.06 | 612.50 | 624.02 |
| 544.41 | 605.08 | 612.52 | 624.04 |
| 544.51 | 605.27 | 612.55 | 624.10 |
| 544.54 | 605.48 | 612.56 | 624.12 |
| 544.61 | 605.60 | 612.60 | 624.14 |
| 544.64 | 605.65 | 612.61 | 624.16 |
| 545.11 | 605.66 | 612.62 | 624.18 |
| 545.17 | 606.15 | 612.63 | 624.20 |
| 545.21 | 606.26 | 612.64 | 624.22 |
| 545.31 | 606.28 | 612.70 | 624.24 |
| 545.34 | 606.33 | 612.71 | 624.30 |
| 545.35 | 606.48 | 612.72 | 624.32 |
| 545.37 | 606.57 | 612.73 | 624.34 |
| 545.55 | 606.59 | 612.80 | 624.40 |
| 545.57 | 606.60 | 612.81 | 624.42 |
| 545.61 | 606.62 | 612.82 | 624.50 |
| 545.63 | 606.64 | 613.02 | 624.52 |
| 545.65 | 606.71 | 613.03 | 624.54 |
| 545.67 | 606.73 | 613.04 | 626.15 |
| 545.81 | 606.75 | 613.06 | 626.17 |
| 545.85 | 606.77 | 613.08 | 626.18 |
| 546.21 | 609.14 | 613.10 | 626.20 |
| 546.23 | 609.15 | 613.11 | 626.22 |
| 546.25 | 609.88 | 613.12 | 626.24 |
| 546.39 | 609.90 | 613.15 | 626.30 |
| 546.47 | 610.56 | 618.02 | 626.31 |

ANNEX II

-9-

Sec. B (con.)

| | | | |
|--------|--------|--------|--------|
| 626.35 | 642.47 | 646.02 | 649.01 |
| 626.40 | 642.50 | 646.04 | 649.03 |
| 626.42 | 642.52 | 646.06 | 649.05 |
| 626.45 | 642.54 | 646.17 | 649.07 |
| 628.05 | 642.56 | 646.20 | 649.11 |
| 628.10 | 642.58 | 646.22 | 649.14 |
| 628.15 | 642.60 | 646.27 | 649.17 |
| 628.20 | 642.62 | 646.28 | 649.19 |
| 628.25 | 642.64 | 646.30 | 649.21 |
| 628.30 | 642.66 | 646.34 | 649.23 |
| 628.35 | 642.68 | 646.36 | 649.24 |
| 628.40 | 642.70 | 646.40 | 649.25 |
| 628.45 | 642.72 | 646.41 | 649.26 |
| 628.50 | 642.74 | 646.42 | 649.27 |
| 628.55 | 642.76 | 646.45 | 649.29 |
| 628.59 | 642.78 | 646.47 | 649.31 |
| 628.70 | 642.80 | 646.51 | 649.32 |
| 628.74 | 642.82 | 646.53 | 649.33 |
| 628.90 | 642.85 | 646.57 | 649.35 |
| 628.95 | 642.87 | 646.65 | 649.41 |
| 629.05 | 642.93 | 646.72 | 649.43 |
| 629.10 | 644.02 | 646.74 | 649.44 |
| 629.20 | 644.06 | 646.75 | 649.46 |
| 629.25 | 644.08 | 646.76 | 649.47 |
| 629.26 | 644.09 | 646.77 | 649.48 |
| 629.50 | 644.11 | 646.78 | 649.49 |
| 629.60 | 644.12 | 646.82 | 649.53 |
| 629.65 | 644.15 | 646.85 | 649.57 |
| 632.02 | 644.17 | 646.86 | 649.67 |
| 632.04 | 644.18 | 646.87 | 649.71 |
| 632.12 | 644.20 | 646.88 | 649.73 |
| 632.18 | 644.22 | 646.89 | 649.75 |
| 632.34 | 644.24 | 646.95 | 649.77 |
| 632.42 | 644.26 | 646.97 | 649.79 |
| 632.60 | 644.28 | 646.98 | 649.81 |
| 632.62 | 644.30 | 647.01 | 649.83 |
| 632.66 | 644.32 | 647.03 | 649.85 |
| 633.00 | 644.36 | 647.05 | 649.87 |
| 640.05 | 644.38 | 647.10 | 649.89 |
| 640.10 | 644.40 | 648.51 | 649.91 |
| 640.20 | 644.42 | 648.53 | 650.01 |
| 640.25 | 644.46 | 648.55 | 650.05 |
| 640.30 | 644.48 | 648.57 | 650.07 |
| 640.35 | 644.52 | 648.61 | 650.13 |
| 640.40 | 644.56 | 648.63 | 650.15 |
| 642.06 | 644.60 | 648.67 | 650.17 |
| 642.08 | 644.64 | 648.69 | 650.19 |
| 642.09 | 644.68 | 648.71 | 650.21 |
| 642.15 | 644.72 | 648.73 | 650.31 |
| 642.18 | 644.76 | 648.75 | 650.35 |
| 642.20 | 644.80 | 648.80 | 650.37 |
| 642.25 | 644.84 | 648.85 | 650.43 |
| 642.27 | 644.88 | 648.89 | 650.45 |
| 642.31 | 644.92 | 648.91 | 650.47 |
| 642.34 | 644.95 | 648.93 | 650.48 |
| 642.45 | 644.98 | 648.95 | 650.51 |

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Sec. B (con.)

| | | | |
|--------|--------|--------|--------|
| 650.53 | 652.80 | 658.00 | 668.10 |
| 650.56 | 652.86 | 660.10 | 668.15 |
| 650.57 | 652.88 | 660.15 | 668.21 |
| 650.61 | 652.90 | 660.20 | 668.23 |
| 650.63 | 652.92 | 660.22 | 668.32 |
| 650.65 | 652.93 | 660.25 | 668.34 |
| 650.71 | 653.01 | 660.30 | 668.36 |
| 650.73 | 653.03 | 660.35 | 668.38 |
| 650.75 | 653.05 | 660.56 | 668.50 |
| 650.77 | 653.07 | 660.59 | 670.00 |
| 650.79 | 653.10 | 660.62 | 670.02 |
| 650.81 | 653.15 | 660.67 | 670.04 |
| 650.83 | 653.20 | 660.71 | 670.06 |
| 650.85 | 653.25 | 660.74 | 670.12 |
| 650.87 | 653.30 | 660.76 | 670.14 |
| 650.90 | 653.35 | 660.77 | 670.16 |
| 651.01 | 653.37 | 660.80 | 670.17 |
| 651.03 | 653.45 | 660.85 | 670.18 |
| 651.04 | 653.47 | 660.92 | 670.19 |
| 651.07 | 653.52 | 660.96 | 670.21 |
| 651.09 | 653.60 | 660.97 | 670.22 |
| 651.11 | 653.62 | 661.05 | 670.23 |
| 651.13 | 653.65 | 661.10 | 670.25 |
| 651.15 | 653.70 | 661.15 | 670.27 |
| 651.23 | 653.75 | 661.20 | 670.29 |
| 651.25 | 653.80 | 661.25 | 670.33 |
| 651.27 | 653.90 | 661.30 | 670.35 |
| 651.29 | 653.96 | 661.35 | 670.40 |
| 651.31 | 653.99 | 661.40 | 670.41 |
| 651.45 | 654.00 | 661.45 | 670.42 |
| 651.48 | 654.16 | 661.50 | 670.43 |
| 651.51 | 654.25 | 661.54 | 670.50 |
| 651.53 | 654.35 | 661.56 | 670.52 |
| 651.55 | 654.45 | 661.67 | 670.54 |
| 651.60 | 654.50 | 661.68 | 670.56 |
| 651.62 | 654.55 | 661.85 | 670.58 |
| 652.06 | 654.65 | 661.90 | 670.64 |
| 652.09 | 654.70 | 661.92 | 670.66 |
| 652.13 | 654.75 | 661.95 | 670.68 |
| 652.14 | 656.05 | 662.10 | 670.70 |
| 652.15 | 656.10 | 662.15 | 670.72 |
| 652.18 | 656.15 | 662.18 | 670.74 |
| 652.21 | 656.20 | 662.20 | 670.90 |
| 652.24 | 656.25 | 662.26 | 672.10 |
| 652.27 | 656.30 | 662.30 | 672.14 |
| 652.35 | 656.35 | 662.50 | 672.20 |
| 652.36 | 657.10 | 664.06 | 672.22 |
| 652.38 | 657.15 | 664.07 | 672.25 |
| 652.41 | 657.30 | 664.08 | 674.10 |
| 652.42 | 657.40 | 666.10 | 674.20 |
| 652.45 | 657.50 | 666.25 | 674.30 |
| 652.50 | 657.60 | 668.00 | 674.33 |
| 652.55 | 657.70 | 668.02 | 674.34 |
| 652.65 | 657.75 | 668.04 | 674.40 |
| 652.72 | 657.80 | 668.06 | 674.42 |
| 652.75 | 657.90 | 668.07 | 674.50 |

ANNEX II

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Sec. B (con.)

| | | | |
|--------|--------|--------|--------|
| 674.52 | 682.90 | 690.40 | 704.34 |
| 674.53 | 682.95 | 692.04 | 704.75 |
| 674.55 | 683.07 | 692.14 | 704.80 |
| 674.56 | 683.20 | 692.16 | 704.95 |
| 674.60 | 683.30 | 692.29 | 705.30 |
| 674.70 | 683.32 | 692.35 | 705.82 |
| 674.75 | 683.40 | 692.40 | 705.83 |
| 674.80 | 683.50 | 692.45 | 705.90 |
| 674.90 | 683.60 | 692.53 | 706.04 |
| 676.07 | 683.65 | 692.55 | 706.19 |
| 676.10 | 683.90 | 694.31 | 706.33 |
| 676.12 | 683.95 | 694.50 | 706.37 |
| 676.22 | 684.20 | 694.61 | 706.42 |
| 676.23 | 684.28 | 694.63 | 706.44 |
| 676.25 | 684.40 | 694.64 | 706.45 |
| 676.50 | 684.57 | 694.65 | 706.47 |
| 678.20 | 684.65 | 694.66 | 706.50 |
| 678.30 | 684.66 | 694.67 | 707.90 |
| 678.32 | 684.67 | 694.70 | 708.01 |
| 678.35 | 684.90 | 696.05 | 708.03 |
| 678.40 | 685.06 | 696.15 | 708.05 |
| 678.45 | 685.10 | 696.30 | 708.07 |
| 680.05 | 685.20 | 696.50 | 708.10 |
| 680.07 | 685.22 | 696.60 | 708.21 |
| 680.12 | 685.24 | 700.54 | 708.23 |
| 680.13 | 685.28 | 702.08 | 708.25 |
| 680.17 | 685.30 | 702.14 | 708.27 |
| 680.19 | 685.37 | 702.15 | 708.30 |
| 680.25 | 685.38 | 702.20 | 708.41 |
| 680.27 | 685.39 | 702.25 | 708.43 |
| 680.42 | 685.42 | 702.28 | 708.56 |
| 680.46 | 685.60 | 702.30 | 708.58 |
| 680.49 | 686.18 | 702.32 | 708.61 |
| 680.59 | 686.24 | 702.35 | 708.63 |
| 680.62 | 686.40 | 702.37 | 708.65 |
| 680.92 | 686.50 | 702.40 | 708.71 |
| 681.10 | 686.60 | 702.45 | 708.72 |
| 681.13 | 686.70 | 702.47 | 708.73 |
| 681.15 | 686.80 | 702.85 | 708.75 |
| 681.21 | 686.90 | 702.90 | 708.76 |
| 681.27 | 687.10 | 702.95 | 708.78 |
| 681.33 | 687.20 | 703.20 | 708.80 |
| 681.36 | 687.30 | 703.25 | 708.82 |
| 681.39 | 687.42 | 703.30 | 708.85 |
| 682.05 | 688.04 | 703.35 | 708.87 |
| 682.07 | 688.06 | 703.40 | 708.89 |
| 682.20 | 688.20 | 703.45 | 708.91 |
| 682.25 | 688.25 | 703.50 | 708.93 |
| 682.30 | 688.30 | 703.55 | 709.01 |
| 682.41 | 688.32 | 703.60 | 709.03 |
| 682.45 | 688.34 | 703.65 | 709.05 |
| 682.50 | 690.05 | 703.70 | 709.06 |
| 682.52 | 690.10 | 703.72 | 709.07 |
| 682.55 | 690.15 | 703.75 | 709.10 |
| 682.70 | 690.20 | 703.80 | 709.11 |
| 682.80 | 690.35 | 703.85 | 709.13 |

ANNEX II

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Sec. B (con.)

| | | | |
|--------|--------|--------|--------|
| 709.15 | 711.47 | 722.75 | 726.65 |
| 709.17 | 711.49 | 722.78 | 726.70 |
| 709.19 | 711.55 | 722.80 | 726.75 |
| 709.21 | 711.60 | 722.82 | 726.90 |
| 709.23 | 711.67 | 722.83 | 727.02 |
| 709.25 | 711.75 | 722.85 | 727.04 |
| 709.27 | 711.77 | 722.86 | 727.11 |
| 709.45 | 711.78 | 722.88 | 727.13 |
| 709.50 | 711.86 | 722.90 | 727.14 |
| 709.54 | 711.88 | 722.92 | 727.15 |
| 709.55 | 711.90 | 722.94 | 727.25 |
| 709.56 | 711.98 | 722.96 | 727.27 |
| 709.57 | 712.05 | 723.05 | 727.40 |
| 709.61 | 712.10 | 723.10 | 727.45 |
| 709.63 | 712.12 | 723.15 | 727.47 |
| 709.66 | 712.15 | 723.20 | 727.59 |
| 710.04 | 712.20 | 723.25 | 727.65 |
| 710.06 | 712.25 | 723.30 | 727.86 |
| 710.08 | 712.27 | 723.32 | 728.05 |
| 710.12 | 712.47 | 723.35 | 728.10 |
| 710.14 | 712.49 | 724.10 | 728.15 |
| 710.16 | 713.05 | 724.12 | 728.20 |
| 710.20 | 713.07 | 724.20 | 728.24 |
| 710.21 | 713.09 | 724.25 | 728.27 |
| 710.26 | 713.11 | 724.35 | 730.05 |
| 710.27 | 713.17 | 724.40 | 730.23 |
| 710.30 | 713.19 | 724.45 | 730.25 |
| 710.34 | 715.20 | 725.04 | 730.27 |
| 710.36 | 715.55 | 725.05 | 730.29 |
| 710.40 | 720.34 | 725.07 | 730.31 |
| 710.42 | 720.80 | 725.08 | 730.37 |
| 710.46 | 720.92 | 725.12 | 730.39 |
| 710.50 | 721.10 | 725.14 | 730.41 |
| 710.60 | 722.02 | 725.16 | 730.43 |
| 710.61 | 722.04 | 725.18 | 730.45 |
| 710.63 | 722.06 | 725.20 | 730.51 |
| 710.65 | 722.09 | 725.22 | 730.53 |
| 710.67 | 722.13 | 725.24 | 730.55 |
| 710.68 | 722.14 | 725.26 | 730.57 |
| 710.70 | 722.16 | 725.30 | 730.59 |
| 710.72 | 722.18 | 725.34 | 730.63 |
| 710.76 | 722.30 | 725.36 | 730.65 |
| 710.78 | 722.32 | 725.40 | 730.67 |
| 710.80 | 722.34 | 725.46 | 730.71 |
| 710.86 | 722.40 | 725.47 | 730.73 |
| 710.88 | 722.42 | 725.52 | 730.74 |
| 710.90 | 722.44 | 726.05 | 730.75 |
| 711.04 | 722.46 | 726.10 | 730.77 |
| 711.08 | 722.50 | 726.15 | 730.80 |
| 711.25 | 722.52 | 726.20 | 730.81 |
| 711.30 | 722.55 | 726.40 | 730.85 |
| 711.31 | 722.56 | 726.45 | 730.86 |
| 711.32 | 722.60 | 726.50 | 730.88 |
| 711.40 | 722.64 | 726.52 | 730.95 |
| 711.42 | 722.70 | 726.55 | 730.96 |
| 711.45 | 722.72 | 726.63 | 730.97 |

ANNEX II

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Sec. B (con.)

| | | | |
|--------|--------|--------|--------|
| 730.98 | 740.05 | 750.47 | 770.30 |
| 730.99 | 740.30 | 750.50 | 770.40 |
| 731.05 | 740.34 | 750.55 | 770.45 |
| 731.06 | 740.50 | 750.60 | 770.70 |
| 731.10 | 740.55 | 750.65 | 770.80 |
| 731.24 | 740.60 | 750.70 | 771.05 |
| 731.26 | 740.70 | 750.75 | 771.20 |
| 731.30 | 740.75 | 750.80 | 771.25 |
| 731.42 | 740.80 | 751.10 | 771.30 |
| 731.44 | 741.06 | 751.11 | 771.31 |
| 731.50 | 741.10 | 751.15 | 771.35 |
| 731.70 | 741.15 | 751.20 | 771.40 |
| 732.35 | 741.20 | 751.25 | 771.50 |
| 732.38 | 741.30 | 755.05 | 771.55 |
| 732.43 | 741.35 | 755.10 | 772.03 |
| 732.50 | 741.40 | 755.20 | 772.06 |
| 732.52 | 741.50 | 755.30 | 772.09 |
| 732.62 | 745.04 | 755.40 | 772.15 |
| 734.05 | 745.08 | 755.45 | 772.20 |
| 734.10 | 745.10 | 755.50 | 772.25 |
| 734.20 | 745.20 | 756.02 | 772.29 |
| 734.30 | 745.25 | 756.04 | 772.40 |
| 734.32 | 745.28 | 756.06 | 772.42 |
| 734.34 | 745.30 | 756.10 | 772.45 |
| 734.40 | 745.32 | 756.15 | 772.54 |
| 734.42 | 745.34 | 756.21 | 772.65 |
| 734.45 | 745.42 | 756.23 | 772.70 |
| 734.51 | 745.45 | 756.25 | 772.80 |
| 734.54 | 745.50 | 756.30 | 772.85 |
| 734.60 | 745.52 | 756.35 | 772.95 |
| 734.71 | 745.54 | 756.40 | 772.97 |
| 734.72 | 745.56 | 756.45 | 773.10 |
| 734.75 | 745.58 | 756.50 | 773.15 |
| 734.77 | 745.60 | 756.55 | 773.20 |
| 734.80 | 745.62 | 756.60 | 773.25 |
| 734.85 | 745.65 | 760.10 | 773.30 |
| 734.88 | 745.66 | 760.12 | 773.35 |
| 734.91 | 745.67 | 760.15 | 774.20 |
| 734.93 | 745.68 | 760.20 | 774.25 |
| 734.95 | 748.05 | 760.30 | 774.35 |
| 735.01 | 748.10 | 760.32 | 774.40 |
| 735.02 | 748.12 | 760.34 | 774.50 |
| 735.04 | 748.15 | 760.36 | 790.00 |
| 735.06 | 748.25 | 760.38 | 790.07 |
| 735.10 | 748.32 | 760.40 | 790.15 |
| 735.11 | 748.34 | 760.42 | 790.23 |
| 735.15 | 748.36 | 760.45 | 790.25 |
| 735.17 | 748.50 | 760.50 | 790.30 |
| 735.18 | 748.55 | 760.52 | 790.37 |
| 737.09 | 750.05 | 760.54 | 790.40 |
| 737.26 | 750.10 | 760.56 | 790.45 |
| 737.35 | 750.15 | 760.58 | 790.47 |
| 737.43 | 750.22 | 766.20 | 790.50 |
| 737.55 | 750.25 | 770.05 | 790.55 |
| 737.65 | 750.32 | 770.07 | 790.59 |
| 737.70 | 750.35 | 770.10 | 790.60 |

ANNEX III

ARTICLES THAT ARE ELIGIBLE FOR PREFERENTIAL
TREATMENT WHEN IMPORTED FROM BENEFICIARY
DEVELOPING COUNTRIES OTHER THAN THOSE
SPECIFIED IN GENERAL HEADNOTE 3(c)(iii) OF
THE TSUS

Section A. Effective as to articles entered, or withdrawn from
warehouse for consumption, on and after the date which
is fifteen days after the date of publication in the
Federal Register, Annex III of Executive Order No.
11888 of November 24, 1975, as amended, is further
amended by inserting in numerical sequence the
following TSUS item numbers:

| | | |
|--------|--------|--------|
| 413.24 | 511.64 | 680.14 |
| 417.23 | 646.92 | 771.41 |
| 418.13 | 653.00 | |
| 429.49 | 657.35 | |

Section B. Effective as to articles entered, or withdrawn from
warehouse for consumption, on and after July 1, 1985,
Annex III to Executive Order No. 11888 of November 24,
1975, as amended by section A herein, is further amended
by substituting therefor, the following new Annex III.

| | | | | | | |
|--------|--------|--------|--------|--------|--------|--------|
| 107.48 | 222.10 | 606.37 | 654.08 | 684.58 | 725.01 | 737.80 |
| 121.61 | 222.50 | 606.44 | 654.30 | 684.59 | 725.03 | 737.95 |
| 121.65 | 245.20 | 610.65 | 654.40 | 684.70 | 725.32 | 740.11 |
| 130.37 | 245.30 | 610.70 | 654.60 | 685.14 | 725.50 | 740.12 |
| 130.40 | 256.60 | 610.74 | 657.24 | 685.16 | 726.25 | 740.13 |
| 135.51 | 256.87 | 610.82 | 657.25 | 685.18 | 727.06 | 740.14 |
| 135.90 | 319.05 | 610.88 | 657.35 | 685.25 | 727.23 | 740.15 |
| 135.95 | 337.40 | 612.03 | 660.42 | 685.32 | 727.29 | 740.38 |
| 136.20 | 355.81 | 612.06 | 660.48 | 685.40 | 727.35 | 741.25 |
| 136.22 | 389.61 | 613.18 | 661.06 | 685.70 | 727.70 | 745.70 |
| 136.30 | 406.20 | 618.15 | 661.09 | 685.90 | 728.22 | 748.20 |
| 136.61 | 407.16 | 642.14 | 661.65 | 686.30 | 730.94 | 748.21 |
| 137.10 | 413.24 | 642.16 | 661.94 | 687.70 | 732.60 | 750.20 |
| 137.40 | 417.23 | 642.17 | 662.35 | 687.72 | 734.15 | 750.40 |
| 137.50 | 418.13 | 646.32 | 664.10 | 688.10 | 734.25 | 750.45 |
| 137.63 | 428.96 | 646.90 | 672.16 | 688.12 | 734.56 | 751.05 |
| 137.71 | 429.49 | 646.92 | 674.31 | 688.17 | 734.70 | 755.25 |
| 138.05 | 445.42 | 648.97 | 674.35 | 688.18 | 734.86 | 771.41 |
| 141.77 | 452.44 | 649.37 | 676.15 | 688.41 | 734.87 | 771.43 |
| 146.22 | 470.85 | 650.89 | 676.20 | 688.42 | 734.90 | 771.45 |
| 146.44 | 473.52 | 651.21 | 676.30 | 692.32 | 735.07 | 772.35 |
| 146.76 | 473.56 | 651.33 | 676.52 | 692.60 | 735.09 | 772.51 |
| 148.03 | 511.64 | 651.37 | 678.50 | 696.10 | 735.12 | 772.60 |
| 148.12 | 522.21 | 651.46 | 680.14 | 696.35 | 735.20 | 773.05 |
| 148.17 | 532.22 | 651.49 | 682.35 | 696.40 | 737.07 | 774.45 |
| 148.72 | 532.31 | 652.03 | 682.60 | 700.90 | 737.15 | 774.55 |
| 155.20 | 534.84 | 652.60 | 683.05 | 703.14 | 737.21 | 790.03 |
| 167.05 | 534.91 | 652.70 | 683.15 | 706.61 | 737.23 | 790.10 |
| 176.15 | 534.94 | 652.84 | 683.70 | 708.45 | 737.28 | 790.39 |
| 192.17 | 535.31 | 653.00 | 683.80 | 708.47 | 737.30 | 790.70 |
| 192.21 | 545.25 | 653.38 | 684.10 | 709.09 | 737.40 | 791.15 |
| 202.62 | 545.53 | 653.39 | 684.15 | 709.40 | 737.42 | 791.28 |
| 204.40 | 545.87 | 653.48 | 684.25 | 711.38 | 737.47 | 792.50 |
| 206.60 | 602.10 | 653.85 | 684.48 | 713.15 | 737.49 | 792.60 |
| 206.98 | 603.40 | 653.93 | 684.53 | 722.08 | 737.51 | |
| 207.00 | 606.36 | 653.94 | 684.55 | 722.11 | 737.60 | |

ANNEX IV

Section A. Effective as to articles entered, or withdrawn from warehouse for consumption, on and after the date which is fifteen days after the date of publication in the Federal Register, General headnote 3(c)(iii) of the TSUS is modified by inserting in numerical sequence the following TSUS item numbers and countries:

| TSUS item No. | Country or Territory | TSUS item No. | Country or Territory |
|------------------|-------------------------|------------------|-------------------------|
| 413.24 | Republic of Korea | 646.92 | Taiwan |
| 417.23 | Israel | 653.00 | Republic of Korea |
| 418.13 | Israel | 657.35 | Taiwan |
| 429.49 | Israel | 680.14 | Taiwan |
| 511.64 | Mexico | 771.41 | Taiwan |

Section B. Effective as to articles entered, or withdrawn from warehouse for consumption, on and after July 1, 1985, General headnote 3(c)(iii) of the TSUS, is amended by section A herein, is further amended by substituting therefore the following new General headnote 3(c)(iii).

"(iii) The following designated eligible articles provided for in TSUS item numbers preceded by the designation "A*", if imported from a beneficiary developing country set opposite the TSUS item numbers listed below, are not entitled to the duty-free treatment provided for in subdivision (c)(ii) of this headnote:

| TSUS item No. | Country or Territory | TSUS item No. | Country or Territory |
|------------------|-------------------------|------------------|-------------------------|
| 107.48 | Brazil | | Argentina |
| 121.61 | Argentina | | Brazil |
| 121.65 | Argentina | 155.20 | Dominican Republic |
| 130.37 | Argentina | | Philippines |
| 130.40 | Argentina | 167.05 | Mexico |
| 135.51 | Mexico | 176.15 | Brazil |
| 135.90 | Mexico | 192.17 | Colombia |
| 135.95 | Mexico | 192.21 | Colombia |
| 136.20 | Mexico | 202.62 | Mexico |
| 136.22 | Mexico | 204.40 | Taiwan |
| 136.30 | Mexico | 206.60 | Mexico |
| 136.61 | Mexico | 206.98 | Taiwan |
| 137.10 | Mexico | 207.00 | Taiwan |
| 137.40 | Mexico | 222.10 | Hong Kong |
| 137.50 | Mexico | 222.50 | Taiwan |
| 137.63 | Mexico | 245.20 | Brazil |
| 137.71 | Mexico | 245.30 | Brazil |
| 138.05 | Mexico | 256.60 | Republic of Korea |
| 141.77 | Mexico | 256.87 | Mexico |
| 146.22 | Turkey | 319.05 | India |
| 146.44 | Philippines | | Hong Kong |
| 146.76 | Mexico | 337.40 | Republic of Korea |
| 148.03 | Mexico | 355.81 | Taiwan |
| 148.12 | Mexico | | Hong Kong |
| 148.17 | Mexico | 389.61 | Taiwan |
| 148.72 | Chile | 406.20 | Israel |

ANNEX IV

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Sec. B (con.)

| TSUS item No. | Country or Territory | TSUS item No. | Country or Territory |
|------------------|-------------------------|------------------|-------------------------|
| 407.16 | Mexico | 651.46 | { Republic of Korea |
| 413.24 | Republic of Korea | | { Taiwan |
| 417.23 | Israel | 651.49 | Taiwan |
| 418.13 | Israel | 652.03 | Republic of Korea |
| 428.96 | Brazil | 652.60 | Taiwan |
| 429.49 | Israel | 652.70 | Republic of Korea |
| 445.42 | Taiwan | 652.84 | Mexico |
| 452.44 | Brazil | 653.00 | Republic of Korea |
| 470.85 | Mexico | 653.38 | Taiwan |
| 473.52 | Mexico | 653.39 | Taiwan |
| 473.56 | Mexico | 653.48 | Taiwan |
| 511.64 | Mexico | 653.85 | Taiwan |
| 522.21 | Mexico | 653.93 | Taiwan |
| 532.22 | Republic of Korea | 653.94 | Republic of Korea |
| 532.31 | Mexico | 654.08 | Taiwan |
| 534.84 | Taiwan | 654.30 | { Republic of Korea |
| 534.91 | Taiwan | | { Taiwan |
| 534.94 | Taiwan | 654.40 | Taiwan |
| 535.31 | Mexico | 654.60 | Hong Kong |
| 545.25 | Mexico | 657.24 | Taiwan |
| 545.53 | Mexico | 657.25 | Taiwan |
| 545.87 | Taiwan | 657.35 | Taiwan |
| 602.10 | Peru | 660.42 | Brazil |
| 603.40 | Chile | 660.48 | { Brazil |
| 606.36 | Brazil | | { Mexico |
| 606.37 | Brazil | 661.06 | { Hong Kong |
| 606.44 | Brazil | | { Taiwan |
| 610.65 | Republic of Korea | 661.09 | Singapore |
| 610.70 | Taiwan | 661.65 | Israel |
| 610.74 | { Republic of Korea | 661.94 | { Hong Kong |
| | { Taiwan | | { Taiwan |
| 610.82 | Republic of Korea | 662.35 | Mexico |
| 610.88 | Taiwan | 664.10 | Taiwan |
| 612.03 | Chile | 672.16 | Taiwan |
| 612.06 | { Chile | 674.31 | Taiwan |
| | { Peru | 674.35 | Taiwan |
| | { Zambia | 676.15 | Taiwan |
| 613.18 | Taiwan | 676.20 | Taiwan |
| 618.15 | Venezuela | 676.30 | { Republic of Korea |
| 642.14 | Republic of Korea | | { Taiwan |
| 642.16 | Republic of Korea | | { Hong Kong |
| 642.17 | Republic of Korea | | { Malaysia |
| 646.32 | Republic of Korea | 676.52 | { Mexico |
| 646.90 | Mexico | | { Republic of Korea |
| 646.92 | Taiwan | | { Singapore |
| 648.97 | Taiwan | | { Taiwan |
| 649.37 | Taiwan | | { Hong Kong |
| 650.89 | { Hong Kong | 678.50 | { Mexico |
| | { Taiwan | | { Republic of Korea |
| 651.21 | Taiwan | | { Taiwan |
| 651.33 | Hong Kong | 680.14 | Taiwan |
| 651.37 | Taiwan | 682.35 | Mexico |

ANNEX IV

-3-

Sec. B (con.)

| <u>TSUS item No.</u> | <u>Country or Territory</u> | <u>TSUS item No.</u> | <u>Country or Territory</u> |
|--------------------------|--|--------------------------|--|
| 682.60 | { Hong Kong Mexico Taiwan | 688.42 | { Hong Kong Taiwan |
| 683.05 | { Republic of Korea Taiwan | 692.32 | { Brazil Mexico Taiwan |
| 683.15 | Mexico | 692.60 | Taiwan |
| 683.70 | { Hong Kong Taiwan | 696.10 | Taiwan |
| 683.80 | Hong Kong | 696.35 | Taiwan |
| 684.10 | Taiwan | 696.40 | Taiwan |
| 684.15 | Singapore | 700.90 | Mexico |
| 684.25 | { Republic of Korea Singapore | 703.14 | Mexico |
| 684.48 | Hong Kong | 706.61 | { Hong Kong Taiwan |
| 684.53 | Taiwan | 708.45 | Taiwan |
| 684.55 | Mexico | 708.47 | Hong Kong |
| 684.58 | { Hong Kong Taiwan | 709.09 | Mexico |
| 684.59 | { Hong Kong Taiwan | 709.40 | Hong Kong |
| 684.70 | { Republic of Korea Taiwan | 711.38 | Mexico |
| 685.14 | { Republic of Korea Singapore Taiwan | 713.15 | Mexico |
| 685.16 | { Hong Kong Republic of Korea Taiwan | 722.08 | { Hong Kong Republic of Korea Taiwan |
| 685.18 | { Republic of Korea Taiwan | 722.11 | { Hong Kong Republic of Korea Taiwan |
| 685.25 | { Hong Kong Republic of Korea Taiwan | 725.01 | Republic of Korea |
| 685.32 | { Republic of Korea Taiwan | 725.03 | Republic of Korea |
| 685.40 | { Republic of Korea Taiwan | 725.32 | Taiwan |
| 685.70 | Singapore | 725.50 | Taiwan |
| 685.90 | { Hong Kong Mexico Taiwan | 726.25 | Taiwan |
| 686.30 | Taiwan | 727.06 | Mexico |
| 687.70 | Malaysia | 727.23 | Taiwan |
| 687.72 | Mexico | 727.29 | Taiwan |
| 688.10 | Taiwan | 727.35 | Taiwan |
| 688.12 | { Mexico Taiwan | 727.70 | Taiwan |
| 688.17 | Mexico | 728.22 | Taiwan |
| 688.18 | Mexico | 730.94 | Republic of Korea |
| 688.41 | { Hong Kong Taiwan | 732.60 | Taiwan |
| | | 734.15 | Taiwan |
| | | 734.25 | Hong Kong |
| | | 734.56 | Haiti |
| | | 734.70 | Republic of Korea |
| | | 734.86 | Taiwan |
| | | 734.87 | Taiwan |
| | | 734.90 | Taiwan |
| | | 735.07 | Republic of Korea |
| | | 735.09 | Taiwan |
| | | 735.12 | Taiwan |
| | | 735.20 | Taiwan |
| | | 737.07 | Hong Kong |
| | | 737.15 | Hong Kong |
| | | 737.21 | Hong Kong |
| | | 737.23 | { Hong Kong Taiwan |

ANNEX IV

-4-

Sec. B (con.)

| TSUS item No. | Country or Territory |
|------------------|-------------------------|
| 737.28 | { Republic of Korea |
| | { Taiwan |
| 737.30 | { Republic of Korea |
| | { Taiwan |
| 737.40 | { Hong Kong |
| | { Republic of Korea |
| 737.42 | Republic of Korea |
| 737.47 | Republic of Korea |
| 737.49 | { Hong Kong |
| | { Taiwan |
| 737.51 | Republic of Korea |
| 737.60 | Hong Kong |
| 737.80 | Hong Kong |
| 737.95 | { Hong Kong |
| | { Taiwan |
| 740.11 | { Hong Kong |
| | { Israel |
| 740.12 | Hong Kong |
| 740.13 | Hong Kong |
| 740.14 | Hong Kong |
| 740.15 | Hong Kong |
| 740.38 | { Hong Kong |
| | { Taiwan |
| 741.25 | Hong Kong |
| 745.70 | Taiwan |
| 748.20 | Taiwan |
| 748.21 | Taiwan |
| 750.20 | Taiwan |
| 750.40 | Hong Kong |
| 750.45 | Republic of Korea |
| 751.05 | Taiwan |
| 755.25 | Hong Kong |
| 771.41 | Taiwan |
| 771.43 | Taiwan |
| 771.45 | Taiwan |
| 772.35 | Taiwan |
| 772.51 | { Brazil |
| | { Republic of Korea |
| 772.60 | Republic of Korea |
| 773.05 | Taiwan |
| 774.45 | Hong Kong |
| 774.55 | Taiwan |
| 790.03 | Taiwan |
| 790.10 | Taiwan |
| 790.39 | Taiwan |
| 790.70 | Republic of Korea |
| 791.15 | { Hong Kong |
| | { Republic of Korea |
| 791.28 | Mexico |
| 792.50 | Philippines |
| 792.60 | Hong Kong" |

ANNEX V

A. Annex III to Presidential Proclamation 4707 of December 11, 1979, is amended --

a) by deleting from Section A of that Annex the following TSUS item numbers with their corresponding rates of duty:

417.44 418.32 511.61 772.30

b) by inserting in Section A of that Annex the following TSUS item numbers in numerical sequence, with their corresponding rates of duty and footnotes, as follows:

| Item in TSUS as modified by Annex II | Rate from which staged | Rates of duty ^{1/} effective with respect to articles entered on or after January 1, -- | | | | | | | |
|--|---------------------------|--|-------|-------|------|------|---------|------|------|
| | | 1980 | 1981 | 1982 | 1983 | 1984 | 1985 | 1986 | 1987 |
| 417.23 | 3/ | 3/ | 3/ | 3/ | 3/ | 3/ | 3.3% 3/ | 3.2% | 3.1% |
| 417.44 | 3% ad val. | 3.9% | 3.8% | 3.7% | 3.6% | 3.4% | 3.3% 3/ | 3/ | 3/ |
| 417.45 | 3/ | 3/ | 3/ | 3/ | 3/ | 3/ | 3.3% 2/ | 3.2% | 3.1% |
| 418.13 | 2/ | 2/ | 2/ | 2/ | 2/ | 2/ | 1.3% 2/ | 0.6% | Free |
| 418.32 | 5% ad val. | 4.4% | 3.8% | 3.1% | 2.5% | 1.9% | 1.3% 2/ | 2/ | 2/ |
| 418.35 | 2/ | 2/ | 2/ | 2/ | 2/ | 2/ | 1.3% 2/ | 0.6% | Free |
| 511.61 | 7.5% ad val. | 7.2% | 6.9% | 6.5% | 6.2% | 5.9% | 5.6% 2/ | 2/ | 2/ |
| 511.64 | 2/ | 2/ | 2/ | 2/ | 2/ | 2/ | 5.6% 2/ | 5.2% | 4.9% |
| 511.65 | 2/ | 2/ | 2/ | 2/ | 2/ | 2/ | 5.6% 2/ | 5.2% | 4.9% |
| 772.29 | 2/ | 2/ | 2/ | 2/ | 2/ | 2/ | 7.5% 2/ | 6.3% | 5% |
| 772.30 | 12.5% ad val. | 12.5% | 12.5% | 11.3% | 10% | 8.8% | 7.5% 2/ | 2/ | 2/ |
| 772.31 | 2/ | 2/ | 2/ | 2/ | 2/ | 2/ | 7.5% 2/ | 6.3% | 5% |

Footnote 3 for items 417.23, 417.44, and 417.45:

3/ Item 417.44 is discontinued and is superseded by items 417.23 and 417.45 effective on or after the date which is fifteen days after the date of publication in the Federal Register.

Footnote 2 for items 418.13, 418.32, and 418.35:

2/ Items 418.32 is discontinued and is superseded by items 418.13 and 418.35 effective on or after the date which is fifteen days after the date of publication in the Federal Register.

Footnote 2 for items 511.61, 511.64, and 511.65:

2/ Item 511.61 is discontinued and is superseded by items 511.64 and 511.65 effective on or after the date which is fifteen days after the date of publication in the Federal Register.

Footnote 2 for items 772.29, 772.30, and 772.31:

2/ Item 772.30 is discontinued and is superseded by items 772.29 and 772.31 effective on or after the date which is fifteen days after the date of publication in the Federal Register.

ANNEX V

B. Annex III to Presidential Proclamation 4768 of June 28, 1980, is amended --

- a) by deleting from Section A of that Annex TSUS item numbers 408.21 and 408.22, with its corresponding rates of duty and by inserting the following TSUS item numbers in numerical sequence, with their corresponding rates of duty and footnotes, as follows:

| Item in TSUS as modified by Annex II | Rate from which staged | Rates of duty ^{1/} , effective with respect to articles exported to the United States on and after July 1, 1980, and entered on and after -- | | | | | | | |
|--------------------------------------|------------------------------|---|------------------|------------------|------------------|-----------------|-----------------|-----------------|-----------------|
| | | July 1, 1980 | January 1, 1981 | January 1, 1982 | January 1, 1983 | January 1, 1984 | January 1, 1985 | January 1, 1986 | January 1, 1987 |
| 408.17 | 3/ | 3/ | 3/ | 3/ - | 3/ | 3/ | 8.4% 3/ | 7.6% | 6.8% |
| 408.18 | 4/ | 4/ | 4/ | 4/ | 4/ | 4/ | 14.4% 4/ | 13.9% | 13.5% |
| 408.19 | 4/ | 4/ | 4/ | 4/ | 4/ | 4/ | 14.4% 4/ | 13.9% | 13.5% |
| 408.21 | 1.7c per lb. + 12.6% ad val. | 12.5% | 11.7% | 10.9% | 10.1% | 9.2% | 8.4% 3/ | 3/ | 3/ |
| 408.22 | 1.7c per lb. + 15.1% ad val. | 1.3c/lb. + 15.1% | 0.9c/lb. + 15.1% | 0.5c/lb. + 15.1% | 0.1c/lb. + 15.1% | 14.8% | 14.4% 4/ | 4/ | 4/ |

Footnote 3 for items 408.17 and 408.21:

- 3/ Item 408.21 is redesignated as item 408.17 effective on or after the date which is fifteen days after the date of publication in the Federal Register.

Footnote 4 for items 408.18, 408.19, and 408.22:

- 4/ Item 408.22 is discontinued and is superseded by items 408.18 and 408.19 effective on or after the date which is fifteen days after the date of publication in the Federal Register.

- b) by deleting from Section B of that Annex TSUS item number 429.48, with its corresponding rates of duty and by inserting the following TSUS item numbers in numerical sequence, with their corresponding rates of duty and footnotes, as follows:

| Item in TSUS as modified by Annex II | Rate from which staged | Rates of duty ^{1/} , effective with respect to articles entered on and after -- | | | | | | | |
|--------------------------------------|------------------------|--|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| | | July 1, 1980 | January 1, 1981 | January 1, 1982 | January 1, 1983 | January 1, 1984 | January 1, 1985 | January 1, 1986 | January 1, 1987 |
| 429.48 | 5% ad val. | 4.8% | 4.7% | 4.5% | 4.4% | 4.2% | 4% 3/ | 3/ | 3/ |
| 429.49 | 3/ | 3/ | 3/ | 3/ | 3/ | 3/ | 4% 3/ | 3.9% | 3.7% |
| 429.51 | 3/ | 3/ | 3/ | 3/ | 3/ | 3/ | 4% 3/ | 3.9% | 3.7% |

Footnote 3 for items 429.48, 429.49, and 429.51:

- 3/ Item 429.48 is discontinued and is superseded by items 429.49 and 429.51 effective on or after the date which is fifteen days after the date of publication in the Federal Register.

ANNEX VI

General headnote 3(c) (i) of the TSUS is modified--

- (a) by deleting "Brunei", "Upper Volta" and "Yemen (Sanaa')"
from the list of designated independent countries,
- (b) by inserting in alphabetical order in the list of designated independent countries "Brunei Darussalam", "Burkina Faso" and "Yemen Arab Republic (Sanaa')".

[FR Doc. 85-14612

Filed 6-13-85; 4:02 pm]

Billing code 3195-01-C

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Presidential Documents

Proclamation 5350 of June 13, 1985

Father's Day, 1985

By the President of the United States of America

A Proclamation

By tradition, the third Sunday in June is celebrated as Father's Day, a day on which we honor our Nation's fathers.

In honoring fathers, we honor families. Families are the bedrock of our Nation's strength, and fathers play an indispensable role in forming vital, whole families. They serve as models and guides for their sons and daughters and help to pass on to the next generation the heritage of our civilization.

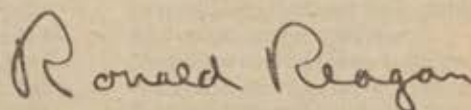
Being a good father is an art that cannot be taught in schools. The main ingredient for success is simply a caring attitude. Fathers who love their families can never completely fail, and children will always remember the influence of a father who tries to do his best. For many children, the memory of a loving father will be the most important influence in their lives.

The love a father feels for his children can take many forms. The only constant is that he shares their lives in a special and irreplaceable way. He feels their hurts as well as their joys, their pains as well as their triumphs. In this way, he plays an indispensable role in their moral development, and they return to him a love and satisfaction that cannot be found anywhere else.

On Father's Day, we pay tribute to all in our society who have taken on the responsibilities and joys of fatherhood. Whether our fathers are near at hand or a continent away, with their families or watching from the light of eternity, we take this day to remember them, to say our thanks for the years they have given us, and to ask that they receive God's blessings.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, in accordance with the joint resolution of the Congress (36 U.S.C. 142a), do hereby proclaim Sunday, June 16, 1985, as Father's Day. I invite the States and communities and the people of the United States to observe that day with appropriate ceremonies as a mark of gratitude and abiding affection for their fathers. I direct government officials to display the flag of the United States on all Federal government buildings, and I urge all Americans to display the flag at their homes and other suitable places on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of June, in the year of our Lord nineteen hundred and eighty-five, and of the Independence of the United States of America the two hundred and ninth.



Rules and Regulations

Federal Register

Vol. 50, No. 116

Monday, June 17, 1985

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 354

[Docket No. 84-015]

Voluntary Inspection of Rabbits and Edible Products Thereof; Rescission of Obsolete Provision for Credit of Inspection Fees

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the voluntary rabbit inspection regulations promulgated under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*) by rescinding paragraph (b) of 9 CFR 354.107, "Continuous inspection performed on a resident basis," and a reference to paragraph (b) in paragraph (a) thereof. Paragraph (b) provides for the credit of rabbit inspection fees to an applicant when the applicant's official plant contracts with the Department of Defense (DOD) for delivery of edible rabbit product to DOD. This rescission is necessary because the provisions of paragraph (b) are no longer current in that the procedure for the credit of inspection fees was discontinued several years ago.

This is a technical amendment being undertaken for the purpose of ensuring that the voluntary rabbit inspection regulations reflect current Government practice and procedure.

EFFECTIVE DATE: This amendment is being published as a final rule, to be effective June 17, 1985, under authority of the Administrative Procedure Act, (5 U.S.C. 551 *et seq.*), sections 553(b)(A) and (B) and 553(d)(3).

FOR FURTHER INFORMATION CONTACT: W.S. Horne, Assistant Deputy Administrator, Regional Operations,

Meat and Poultry Inspection Operations, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6042.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Administrator has determined that this final rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It is anticipated that the promulgation of this final rule will result in no additional costs to the Government or to any segment of the public. This rule merely updates the existing regulation in conformance with present Government and industry practices.

Effect of Small Entities

The Administrator has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). There will be no economic impact on small entities since this rule is limited to correcting the present regulation to conform with existing industry and Government practices.

Background

Paragraph (b) of 9 CFR 354.107 provides for credit of rabbit inspection fees to an applicant when the applicant's official plant contracts with the Department of Defense (DOD) for delivery of edible rabbit product to DOD. Section 54.107 was first promulgated on June 28, 1958, by the Agricultural Marketing Service (AMS), which was at that time responsible for both grading and inspection of rabbits for human consumption. (24 FR 4774, June 28, 1958)

On March 28, 1972, the Secretary announced that a new Animal and Plant Health Inspection Service (APHIS) was established. At that time the functions of

inspection and grading of rabbits were separated. AMS retained rabbit grading while the inspection function was transferred to APHIS. (37 FR 6327, March 28, 1972)

On June 11, 1976, AMS revoked its prior regulatory provisions concerning the inspection of rabbits, and on the same date APHIS adopted those provisions "with minor changes." (41 FR 23702, June 11, 1976)

Apparently, the "DOD provision" was obsolete before the regulatory revisions of 1976, but no action was taken to rescind that section prior to the redelegation of grading and inspection functions. It was carried over intact along with all other AMS regulations for rabbit inspection. Existence of the obsolete provision was only recently brought to the Agency's attention by a packer's request for credit. Since no mechanism for credit exists, and there is no USDA/DOD agreement upon which one could be based, the request was denied. It is now essential that this provision be formally rescinded to prevent further confusion within the industry.

"Good Cause" Rationale

Under sections 553(b) (A) and (B) and 553(d)(3) of the Administrative Procedure Act (5 U.S.C. 553(b) (A), (B) and d(3)), this amendment may be issued without notice and comment, to be effective immediately, because it is merely a recitation of existing agency practice and procedure and the Agency finds it has good cause to do so. Section 553(b)(B) states that a general notice of proposed rulemaking is not required "when the agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest".

The Administrator has determined that this amendment, which merely deletes an obsolete regulatory provision, meets the APA's "good cause" exemption standards and may therefore be issued as a final rule, to be effective immediately, without prior public notice and comment proceedings. Notwithstanding these findings, the Administrator has further determined that post-promulgation public comments will be accepted and given appropriate consideration. Any such comment may be addressed to the Department of Agriculture, Food Safety and Inspection Service, Attn: Hearing Clerk, 14th and

Independence SW, Washington, DC 20250.

For the reasons set forth above, Part 354 of Title 9, Code of Federal Regulations, is amended as follows.

List of Subjects for 9 CFR Part 354

Voluntary inspection of rabbits, Fees and charges, Continuous inspection performed on a resident basis, Meat inspection.

PART 354—VOLUNTARY INSPECTION OF RABBITS AND EDIBLE PRODUCTS THEREOF

1. The authority citation of Part 354 continues to read as follows:

Authority: 60 Stat. 1067, as amended [7 U.S.C. 1622 *et seq.*], 60 Stat. 1090, as amended 7 U.S.C. 1624.

2. Section 354.107 is revised to read as follows:

§ 354.107 Continuous inspection performed on a resident basis.

The charges for inspection of rabbits and products thereof shall be those provided for in § 354.101(b) when the inspection service is performed on a continuous year-round resident basis and the services of an inspector or inspectors are required 4 or more hours per day. When the services of an inspector are required on an intermittent basis, the charges shall be at the hourly rate provided for in § 354.101(b) plus the travel expense and other charges provided for in § 354.106.

Done at Washington, D.C. on May 21, 1985.
Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 85-14474 Filed 6-14-85; 8:45 am]

BILLING CODE 3410-DM-M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; Doc. No. R-0539]

Truth in Lending: Determination of Effect of State Laws (Arizona)

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Preemption determination.

SUMMARY: The Board is publishing in final form a determination as to whether certain provisions in the law of Arizona are inconsistent with the Truth in Lending Act or Regulation Z and therefore preempted. The Board has determined that one state disclosure requirement is preempted. Effective October 1, 1986, creditors in Arizona are prohibited from using that disclosure;

they have the option of complying with the determination before that date.

EFFECTIVE DATE: October 1, 1986, with compliance optional before that date.

FOR FURTHER INFORMATION CONTACT: Susan M. Werthan, Senior Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, at (202) 452-3867; or Joy W. O'Connell, Telecommunication Device for the Deaf (TDD) at (202) 452-3244.

SUPPLEMENTARY INFORMATION:

(1) General

Section 111(a)(1) of the Truth in Lending Act authorizes the Board to determine whether any inconsistency exists between chapters 1, 2, and 3 of the federal act or regulation and any state laws relating to the disclosure of information in connection with consumer credit transactions. If the Board determines that a state-required disclosure is inconsistent with the federal law, the state law is preempted to the extent of the inconsistency, and creditors in that state may not make disclosures using the inconsistent term or form. A determination on provisions in the law of one state has no effect on the validity of similar provisions in other states.

The determination regarding Arizona law is issued under authority delegated to the Director of the Division of Consumer and Community Affairs, as set forth in the Board's Rules Regarding Delegation of Authority (12 CFR 265.2(h)(2)).

Preemption determinations have an effective date of the October 1 that follows the determination by at least 6 months, as required by section 105(d) of the act. As a result, this determination has an effective date of October 1, 1986, although creditors may begin complying with the determination before that time. After October 1, 1986, creditors in Arizona may not use the inconsistent term in making the state-required disclosure.

(2) Principles Followed in Preemption Analysis

In regard to whether a state law is inconsistent with the federal provisions, § 226.28(a)(1) of Regulation Z, which implements section 111 of the act, provides that a state law is inconsistent with the federal provisions if it requires a creditor to make disclosure or take actions that contradict the federal law. A state law is contradictory, and therefore preempted, if it significantly impedes the operation of the federal law or interferes with the purposes of the federal statute. Two examples of

contradictory state laws are included in § 226.28(a)(1). They are (1) a law that requires the use of the same term for a different amount or a different meaning than the federal law, and (2) a law that requires the use of a different term than the federal term to describe the same item.

The following principles, which were developed in previous preemption determinations (48 FR 4454, February 1, 1983), were applied in making the current determination:

- For purposes of preemption determinations, state law is deemed to require the use of specific terminology in the state disclosures if the statute uses certain terminology in the disclosure provision.

- A state disclosure does not "describe the same item," under § 226.28(a)(1), if it is not the functional equivalent of a federal disclosure.

- Preemption occurs only in those transactions in which an actual inconsistency exists between the state law and the federal law.

- A state law is not inconsistent merely because it requires more information than federal law or requires disclosure in transactions where federal law requires none.

Preemption determinations are generally limited to those provisions of state law identified in the request for a determination, and that is the case in the present determination. At the Board's discretion, however, other state provisions that may be affected by the federal law also may be addressed.

(3) Discussion of Specific Request and Final Determination

The Board was asked to examine section 6-621A.2 of Arizona's Small Loans Act, as amended April 24, 1984, to determine whether several requirements imposed by this provision in Arizona's law are inconsistent with section 128 of the federal act and §§ 226.18 and 226.27 of Regulation Z.

The Board published a proposed determination on March 5, 1985 (50 FR 8737). In that proposal, the Board proposed to preempt one of three requirements reviewed. The Board received two comments on the proposal, which focused on the proposed preemption of the term "THE TOTAL SUM OF \$_____." The final determination regarding the state law at issue, together with the reasons for the Board's action, are set forth below.

The pertinent provisions of the state statute (which became effective January 1, 1985) are as follows:

6-621. Requirements for loan transactions

A. Every licensee shall:

2. Give to the borrower, or if there are two borrowers, to one of them, a statement written in both English and Spanish which shall read as follows:

I understand that the documents I have signed in this transaction obligate me to pay to _____ (name of lender) the total sum of \$_____ and that I am required to make a total of _____ payments of \$_____ each and payments of \$_____ to be paid _____ (weekly or monthly) _____ over the life of the loan. I further understand that in the event that I fail to make the payments according to the terms contained in these documents I may lose the property which I have given as security for this loan which is the following:

(Description of property given as security)
Borrower _____
Borrower _____

The requesting party asked for a determination as to whether the Spanish language requirement imposed by this section contradicts § 226.27 of Regulation Z, which provides that all of the disclosures required by the regulation be made in the English language (except in the Commonwealth of Puerto Rico). Since the state law requires that the prescribed notice be given in both Spanish and English, the Board has determined that the state's Spanish language requirement does not contradict and is not preempted by the federal law because under the regulation Spanish translations are permissible as additional information. (See Regulation Z Official Staff Commentary § 226.27-2.)

The requesting party also asked for a determination as to whether certain terms required to be used in the prescribed notice are preempted by the federal act and regulation. The term "THE TOTAL SUM OF \$_____" corresponds to § 226.18(h) of Regulation Z, which requires disclosure of the total dollar amount owed, using the term "total of payments." One of the commenters recommended that the Board not preempt this disclosure. The commenter believed that in the context of the required notice, the state-required term more effectively informed consumers of their total debt than the federal term. However, because the state law requires the use of a different term than federal law to describe the same item, the Board has determined that this portion of the state-required disclosure is preempted. The Board notes that only the specific term "THE TOTAL SUM OF" is preempted, not the remainder of the notice. One way to modify the notice would be to delete the term "THE TOTAL SUM OF"—leaving only the dollar amount of the debt to be filled in by the lender.

The requesting party also suggested that the term "TOTAL OF _____ PAYMENTS" is inconsistent, and therefore preempted, because it seems to require the use of the federally prescribed term "total of payments" to represent a different meaning from the federal law. The Board has determined that the state term "TOTAL OF _____ PAYMENTS" is not the same as the federally required "total of payments" disclosure because it requires the number of payments to be substituted for the blank shown in the phrase, clearly distinguishing it from the federal term both in language and meaning. For instance, an example of the state disclosure would be "TOTAL OF 60 PAYMENTS" while the federal term would appear as "total of payments = \$10,000." Because the state law does not in this instance prescribe a federal term to represent a different meaning, the Board has determined that the state disclosure does not contradict federal law and is therefore not preempted.

List of Subjects in 12 CFR Part 226

Advertising, Banks, Banking, Consumer protection, Credit, Finance, Penalties, Truth in lending.

(4) Preemption Determination

The following order sets forth the preemption determination, which will also be reflected in the Official Staff Commentary on Regulation Z (Supplement I to Part 226).

Order

Pursuant to section 111 of the federal Truth in Lending Act as revised in March 31, 1980 (Title VI of the Depository Institutions Deregulation and Monetary Control Act of 1980, Pub. L. 96-221), the Board has determined that a certain provision in the law of Arizona is inconsistent with and preempted by the federal law. The determination is as follows:

Preemption determination—Arizona. Effective October 1, 1986, the following provision in the state law of Arizona is preempted by the federal law:

In section 6-621A.2 of Arizona's Small Loans Act (as amended April 24, 1984), the use of the term "THE TOTAL SUM OF" is inconsistent with § 226.18(h) of Regulation Z, and is preempted.

Board of Governors of the Federal Reserve System, June 11, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-14414 Filed 6-14-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 232 and 235

[Docket No. R-85-1245; FR-2129]

Mortgage Insurance; Changes in Interest Rates

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This change in the regulations decreases the maximum allowable interest rate on section 232 (Mortgage Insurance for Nursing Homes) and on section 235 (Homeownership for Lower Income Families) insured loans. This final rule is intended to bring the maximum permissible financing charges for these programs into line with competitive market rates.

EFFECTIVE DATE: June 5, 1985.

FOR FURTHER INFORMATION CONTACT: John N. Dickie, Chief Mortgage and Capital Market Analysis Branch, Office of Financial Management, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Telephone, (202) 755-7270. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The following amendments to 24 CFR Chapter II have been made to decrease the maximum interest rate which may be charged on loans insured by this Department under section 232 (fire safety equipment) and section 235 of the National Housing Act. The maximum interest rate on the HUD/FHA section 232 (fire safety equipment) and section 235 insurance programs has been lowered from 12.00 percent to 11.50 percent.

The Secretary has determined that this change is immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709-1.

As a matter of policy, the Department submits most of its rulemaking to public comment, either before or after effectiveness of the action. In this instance, however, the Secretary has determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this final rule effective immediately.

HUD regulations published at 47 FR 56266 (1982), amending 24 CFR Part 50,

which implement section 102(2)(C) of the National Environmental Policy Act of 1969, contain categorical exclusions from their requirements for the actions, activities and programs specified in § 50.20. Since the amendments made by this rule fall within the categorical exclusions set forth in paragraph (f) of § 50.20, the preparation of an Environmental Impact Statement or Finding of No Significant Impact is not required for this rule.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of \$100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local governmental agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule provides for a small increase in the mortgage interest rate in programs of limited applicability, and thus of minimal effect on small entities.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on October 22, 1984 (49 FR 41684) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program numbers are 14.108, 14.117, and 14.120.

List of Subjects

24 CFR Part 235

Condominiums, Cooperatives, Low and moderate income housing, Mortgage insurance, Homeownership, Grant programs: Housing and community development.

24 CFR Part 232

Fire prevention, Health facilities, Loan programs: Health, Loan programs: Housing and community development, Mortgage insurance, Nursing homes, Intermediate care facilities.

Accordingly, the Department amends 24 CFR Parts 232 and 235 as follows:

PART 232—NURSING HOMES AND INTERMEDIATE CARE FACILITIES MORTGAGE INSURANCE

1. The authority citation for 24 CFR Part 232 continues to read as follows:

Authority: Sections 211, 232, National Housing Act, (12 U.S.C. 1715b, 1715w); Section 7(d), Department of Housing and Urban Development, (42 U.S.C. 3535(d)).

2. In § 232.560, paragraph (a) is revised to read as follows:

§ 232.560 Maximum interest rate.

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 11.50 percent per annum, except that where an application for commitment was received by the Secretary before June 5, 1985, the loan may bear interest at the maximum rate in effect at the time of application.

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

3. The authority citation for 24 CFR Part 235 continues to read as follows:

Authority: Sections 211, 235, National Housing Act, (12 U.S.C. 1715b, 1715z); Section 7(d), Department of Housing and Urban Development Act, (42 U.S.C. 3535(d)).

4. In § 235.9, paragraph (a) is revised to read as follows:

§ 235.9 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 11.50 percent per annum, except that where an application for commitment was received by the Secretary before June 5, 1985, the loan may bear interest at the maximum rate in effect at the time of application.

5. In § 235.540, paragraph (a) is revised to read as follows:

§ 235.540 Maximum interest rate.

(a) On or after June 5, 1985, the loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 11.50 percent per annum, with the exception of applications submitted pursuant to feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new

lower rate if requested by the mortgagee.

Dated: June 4, 1985.

Janet Hale,

Acting General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commission.

[FR Doc. 85-14435 Filed 6-14-85; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 301, and 602

[T.D. 8028]

Information Returns Required by Officers, Directors and Shareholders of Foreign Personal Holding Companies

Correction

In the issue of Tuesday, June 4, 1985, in the document beginning on page 23407 in the second column, make the following correction:

On page 23410, first column, in the file line at the end of the document, "FR Doc. 85-13277" should read "FR Doc. 85-13227".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD13 85-06]

Regatta; Annual Kennewick, Washington, Columbia Unlimited Hydroplane Races

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is promulgating permanent special local regulations for a part of the waters of the Columbia River at Kennewick, Washington, from the western end of Hydro Island to the western end of Clover Island. The special regulations will be in effect daily from Tuesday through Saturday, July 23, to 27, 1985, from 8:30 a.m. to 7:30 p.m., and on Sunday, July 28, 1985, from 8:30 a.m. until one hour after the conclusion of the last race; and thereafter annually during the last week of July as published in the Local Notice to Mariners. This is being done to promote the safe conduct of the Kennewick, Washington, Columbia Unlimited Hydroplane Races scheduled

during this time period as part of the Tri-Cities Water Follies. It is intended to restrict general navigation in the area for the safety of spectators and participants in this event.

EFFECTIVE DATES: July 23-28, 1985, and annually thereafter during the last week of July as published in the Local Notice to Mariners.

FOR FURTHER INFORMATION CONTACT:

LCDR Mark P. Troseth, Chief, Port Operations Department, 6767 North Basin Avenue, Portland, Oregon 97217, (503) 240-9317.

SUPPLEMENTARY INFORMATION: On Monday, April 22, 1985, the Coast Guard published a Notice of Proposed Rule Making in the Federal Register for these regulations (50 FR 15760). Interested persons were requested to submit comments and no comments were received.

Drafting Information

The drafters of these regulations are LT M. P. Rand, USCG, Project Officer, U.S. Coast Guard Marine Safety Office, Portland, Oregon, and LCDR D. G. Beck, USCG, Project Attorney, Thirteenth Coast Guard District Legal Office.

Discussion of Comments

No comments were received. Minor editorial changes were made in the final rule to improve the overall clarity of the rule.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 28, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. These regulations affect a short section of the Columbia River with only light commercial traffic and will be in effect for only six (6) days, two of those being Saturday and Sunday. On the days of time trials, Tuesday through Saturday, July 23 to 27, 1985, and annually thereafter, the Patrol Commander will allow commercial traffic to transit the area between time trials. On race day, Sunday, July 28, 1985, all traffic will be excluded. This race is an annual event and similar regulations have been promulgated in the past. There has been no evidence brought to the attention of the Coast Guard of significant adverse economic effect from such past regulation.

Since the impact of these regulations is expected to be minimal the Coast Guard certifies that they will not have a

significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Part 100 of Title 33, Code of Federal Regulations, is amended by adding § 100.1303 to read as follows:

§ 100.1303 Annual Kennewick, Washington, Columbia Unlimited Hydroplane Races.

(a) From Tuesday through Saturday, July 23 to 27, 1985, this regulation will be in effect from 8:30 a.m. until 7:30 p.m. On Sunday, July 28, 1985, this regulation will be in effect from 8:30 a.m. until one hour after the conclusion of the last race. This section will be effective thereafter annually during the last week of July as published in the Local Notices to Mariners.

(b) The Coast Guard will restrict general navigation and anchorage by this regulation during the hours it is in effect on the waters of the Columbia River from the western end of Hydro Island to the western end of Clover Island at Kennewick, Washington.

(c) When deemed appropriate, the Coast Guard may establish a patrol consisting of active and auxiliary Coast Guard personnel and vessels in the area described in paragraph (b) of this section. The patrol shall be under the direction of a Coast Guard officer or petty officer designated as Coast Guard Patrol Commander. The Patrol Commander is empowered to forbid and control the movement of vessels in the area described in paragraph (b) of this section.

(d) The Patrol Commander may authorize vessels to be underway in the area described in paragraph (b) of this section during the hours this regulations is in effect. All vessels permitted to be underway in the controlled area (other than racing or official vessels) shall do so only at speeds which will create minimum wake consistent with maintaining steerageway, and not to exceed seven (7) miles per hour. This speed limit may be adjusted at the discretion of the Patrol Commander to enhance the level of safety.

(e) A succession of sharp, short signals by whistle, siren, or horn from vessels patrolling the area under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signalled shall stop and shall comply with the orders of the patrol vessel personnel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

Dated: June 6, 1985.

R.R. Garrett,

Captain, U.S. Coast Guard, Acting Commander, 13th Coast Guard District.

[FR Doc. 85-14456 Filed 6-14-85; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 100

[CGD 09-85-12]

Special Local Regulations; Duluth Harbor Fireworks Display

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Duluth Harbor Fireworks Display. This event will be held on July 4, 1985. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATES: These regulations become effective and terminate on July 4, 1985.

FOR FURTHER INFORMATION CONTACT:

MSTC Cary H. Lindsay, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522-4420.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rule Making has not been published for these regulations and they are being made effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impractical. The application to hold this event was not received until June 4, 1985, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are MSTC Cary H. Lindsay, project officer, Office of Search and Rescue and LCDR A.R. Butler, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The Duluth Harbor Fireworks Display will be conducted in the Duluth Harbor on July 4, 1985. This event will have falling ash and debris and an unusually

large concentration of spectator boats could pose hazards to navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (U.S. Coast Guard Station Duluth, MN).

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

PART 100—[AMENDED]

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46(c)(5) and 33 CFR 100.35

2. Part 100 is amended to add a temporary § 100.35-0912 to read as follows:

§ 100.35-0912 Duluth Harbor fireworks display.

(a) *Regulated Area.* That portion of the Duluth Harbor Basin Northern Section bounded on the south by a line drawn on a bearing of 087 degrees true from the Cargill Pier through Duluth Basin Lighted Buoy 5 (LLNR 1813) to the opposite shore on the north by the Duluth Aerial Bridge.

(b) *Special Local Regulations.* (1) The above portion of Duluth Harbor, Lake Superior will be closed to all commercial vessel navigation or anchorage from 7:30 p.m. (Local Time) until 11:00 p.m. on July 4, 1985.

(2) The following portion of Duluth Harbor Basin Northern Section will be closed to all traffic from 7:30 p.m. (Local Time) until 11:00 p.m. July 4, 1985.

(i) Within 300 yards of position 46 degrees 46 minutes 38 seconds north and 92 degrees 06 minutes 06 seconds west.

(3) Vessels desiring to transit the restricted area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a "no wake" speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants in the event or vessels of the patrol, in the performance of their assigned duties.

(4) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result

in expulsion from the area, citation for failure to comply, or both.

Dated: June 10, 1985.

L.W. Garrett,
Chief of Staff (Acting), Captain, U.S. Coast
Guard, Commander, Ninth Coast Guard
District.

[FR Doc. 85-14457 Filed 6-14-85; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD7-84-01]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, FL and Savannah River, GA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Florida Department of Transportation, the Coast Guard is changing the regulations governing the Merrill Barber Bridge, mile 951.9, at Vero Beach by permitting the number of openings to be limited during certain periods. This change is being made because vehicular traffic has increased. This action will accommodate the needs of vehicular traffic yet still provide for the reasonable needs of navigation. Also, the Coast Guard is correcting a typographical error in a previously published drawbridge regulation governing the Seaboard System Railroad bridge over the Savannah River near Augusta, GA.

EFFECTIVE DATE: These regulations become effective on July 17, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, Bridge Administration Specialist, telephone (305) 350-4103.

SUPPLEMENTARY INFORMATION: On December 24, 1984 the Coast Guard published a Supplemental Notice of Proposed Rulemaking (49 FR 49855) concerning this amendment to regulations governing the Merrill Barber bridge. The Commander, Seventh Coast Guard District, also published the proposal as a Public Notice dated January 8, 1985. In each notice interested persons were given until February 7, 1985 to submit comments. Since the change to 33 CFR 117.371(d) simply corrects the mileage identification of a bridge, public comment on this amendment is considered unnecessary and was therefore not sought.

Drafting Information

The drafters of these regulations are Mr. Walt Paskowsky, Bridge Administration Specialist, project

officer, and Lieutenant Commander Ken Gray, project attorney.

Discussion of Comments

Two comments were received. The Indian River County Commission advised it had no objection to the proposed revision. The other commenter opposed further restrictions on bridge openings and suggested that land traffic be routed over the nearby 17th Street high level, fixed bridge, that drawbridge operators be better trained, and that the bridge be equipped with a VHF radiotelephone to facilitate communication between vessels and bidgetenders. The Coast Guard has no authority to reroute the movement of land traffic. Adequate training for drawtenders is implicitly required by 33 CFR 117.7(b)(1) which requires drawbridge owners to ensure that the necessary drawtenders are provided for the safe and prompt opening of the draw. Radiotelephone installation is under study by the Florida Department of Transportation.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because it exempts commercial vessels such as tugs with tows and regularly scheduled cruise vessels. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05-1(g).

2. Sections 117.261(i)(1) and 117.371(d) are revised to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Miami.

* * * * *

(i)(1) The draw of the SR-60 bridge, mile 951.9, at Vero Beach, shall open on signal; except that from 7:45 a.m. to 9 a.m., 12 noon to 1:15 p.m., and 4 p.m. to 5:15 p.m., Monday through Friday, except federal holidays, the draw need only open at 8:30 a.m., 12:30 p.m. and 4:30 p.m. From December 1 through April 30 from 7 a.m. to 6 p.m., Monday through Friday, except federal holidays, and except as provided above, the draw need only open on the hour, quarter-hour, half-hour, and three-quarter hour. Public vessels of the United States, state or local government vessels used for public service, tugs with tows, regularly scheduled cruise vessels and vessels in distress shall be passed at any time.

§ 117.371 Savannah River, Georgia.

(d) The draw of the Seaboard System Railroad bridge, mile 195.4 near Augusta, shall open on signal if at least three hours notice is given.

Dated: May 29, 1985.

A.R. Larzelere,

Captain, U.S. Coast Guard, Acting
Commander, Seventh Coast Guard District.

[FR Doc. 85-14451 Filed 6-14-85; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 10

(Docket No. 407 88-4181)

Practice Before the Patent and Trademark Office

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule; correction.

SUMMARY: This document corrects clerical errors in the notice of final rules amending the Patent and Trademark Office (PTO) rules of practice governing practice before the PTO by attorneys and agents, which were published in the Federal Register on February 6, 1985 (50 FR 5158 to 5187).

FOR FURTHER INFORMATION CONTACT: Cameron Weiffenbach, Director of the Office of Enrollment and Discipline, by telephone at (703) 557-2012, or by mail marked to his attention and addressed to Box OED, Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: Clerical Corrections to the Rules

The following corrections are made to the Federal Register issue of February 6, 1985:

1. On page 5176, the first column, § 10.23(c)(8) is corrected by deleting the fourth appearing "to" in the first sentence.
2. On page 5176, the second column, § 10.23(c)(16), the reference to "§ 101.31" is corrected to read "§ 10.131".
3. On page 5183, the second column, the first sentence of § 10.136(d) is corrected by changing the word "if" to "in".
4. On page 5183, the second column, the reference to "5 U.S.C 3105" in § 10.139(a) is corrected to read "5 U.S.C. 3105".
5. On page 5183, the third column, the word "requis" in § 10.139(d)(2) is corrected to read "requires".
6. On page 5185, the third column, the second sentence of § 10.154(a) is corrected by changing "(a)" to "(1)" and "(b)" to "(2)".
7. On page 5186, the first column, § 10.154(b)(3) is corrected by deleting "and".

Dated: June 6, 1985.

Donald J. Quigg,

Acting Commissioner of Patents and Trademarks.

[FR Doc. 85-14449 Filed 6-14-85; 8:45 am]

BILLING CODE 3510-16-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

(Region II Docket No. 49; A-2-FRL-2850-6)

Approval and Promulgation of Implementation Plans; New York 1982 Ozone and Carbon Monoxide Attainment Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces final approval by the Environmental Protection Agency (EPA) of a revision to the New York State Implementation Plan (SIP) to provide for attainment of the national ambient air quality standards for ozone and carbon monoxide in the New York City metropolitan area (New York City and Nassau, Suffolk, Rockland and Westchester Counties). This "1982 SIP Revision" was developed to meet the requirements of Part D of the Clean Air Act.

This final action also removes a condition that EPA placed on its

approval of a 1979 revision to the SIP. This condition, promulgated at 40 CFR 52.167(f)(2), required the submittal by the State of New York of an adequate emissions inventory of volatile organic compounds (VOCs) for the New York City metropolitan area. The removal of this condition results in the full unconditional approval of the 1979 SIP as meeting the requirements of Part D of the Clean Air Act with regard to attainment of the ozone standard. It consequently lifts a moratorium on the construction or modification of major sources of VOCs that has been in effect in the New York City metropolitan area.

EFFECTIVE DATE: This action is effective on June 17, 1985.

ADDRESSES: Copies of the State's submittals, public comments received on EPA's notices of proposed rulemaking, and an EPA Technical Support Document concerning this action are available for inspection during normal business hours at the following locations:

Environmental Protection Agency,
Region II, Air Programs Branch, Jacob K. Javits Federal Building, 26 Federal Plaza, Room 1005, New York, New York 10278

Environmental Protection Agency,
Public Information Reference Unit,
Library, 401 M Street SW.,
Washington, D.C. 20460

New York State Department of
Environmental Conservation, Division
of Air, 50 Wolf Road, Albany, New
York 12233-0001

New York State Department of
Environmental Conservation, Region
1, State University of New York,
Building 40, Stony Brook, New York
11790

New York State Department of
Environmental Conservation, Region
2, Two World Trade Center, New
York, New York 10047.

Copies of material incorporated by reference may be examined at: Office of the Federal Register, 1100 L Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II, Jacob K. Javits Federal Building, 26 Federal Plaza Room 1005, New York, NY 10278, (212) 264-2517.

SUPPLEMENTARY INFORMATION:

I. Background

In response to provisions of the 1977 Amendments to the Clean Air Act, on May 16, 1979 the State of New York submitted to the Environmental Protection Agency (EPA) a revision to

its State Implementation Plan (SIP) for the New York City metropolitan area (New York City and Nassau, Suffolk, Rockland and Westchester Counties). This 1979 revision presented a program to continue the State's efforts toward attainment of the national ambient air quality standards for ozone and carbon monoxide. EPA approved this revision, with conditions, on May 21, 1980 (45 FR 33981). However, because the State requested and received an extension to December 31, 1987 for attainment of the standards, it was required to submit by July 1, 1982 another revision to its SIP. This revision was submitted to EPA on July 1, 1982 and August 3, 1982.

Based on EPA's review of these "1982 submissions," on February 3, 1983 (48 FR 5144) EPA proposed disapproval of the New York SIP. (The reader is referred to this February 3, 1983 notice for a complete description of the State's 1982 submissions, EPA's review criteria and EPA's findings as a result of its review.) In brief, EPA found that the 1982 submissions did not provide for attainment of the ozone and carbon monoxide standards by December 31, 1987. The SIP revision also did not include commitments to implement all reasonably available control measures nor did it contain adequate schedules for the development and implementation of such measures.

On February 2, 1984 the Governor of the State of New York adopted and submitted to EPA a supplement to the 1982 submissions. EPA also received additional information regarding this supplemental submission from the New York State Department of Environmental Conservation (NYSDEC) on February 7, 15 and 17, 1984. All of this material was prepared to address the deficiencies found in the 1982 submissions.

On May 1, 1984 (49 FR 18558) EPA published another notice of proposed rulemaking which dealt with New York's 1982 SIP revision submittals up to that point in time (i.e., the original 1982 submissions, the February 2, 1984 supplement, and the additional information dated February 7, 15 and 17, 1984). In that notice EPA proposed to find that the 1982 SIP revision for the New York City metropolitan area was now approvable. This proposal reversed, based on the additional submittals, EPA's February 3, 1983 proposed disapproval of the SIP. Today's notice finalizes EPA's May 1, 1984 notice of proposed rulemaking. The public is referred to that notice for a detailed discussion of the revisions submitted prior to that date.

II. Changes From EPA's May 1, 1984 Proposal

Today's action takes into consideration six submittals received from New York subsequent to EPA's May 1, 1984 notice of proposed rulemaking. Each of these submittals relate to the SIP's carbon monoxide control program.

As a part of the continuing development of its 1982 SIP revision, New York committed:

- By June 1, 1984 to develop and implement through agreements with local government an indirect source review program in those parts of Nassau County classified under section 107(d) of the Clean Air Act as not attaining the carbon monoxide standards, and
- By September 1, 1984 to analyze and commit to control measures for a second grouping of carbon monoxide hot spots in New York City.

Despite the fact that EPA had not taken final action on its 1982 SIP revision, New York State has been implementing these provisions. Consequently, on October 1, 17 and November 30, 1984, on January 4, 25, and 30, 1985 and on March 6, 1985 NYSDEC supplemented its 1982 SIP submittals with the following additional documents:

- October 1, 1984—a letter identifying additional carbon monoxide hot spot locations in the Mitchel Field area of Nassau County and commitments to mitigate the identified carbon monoxide problems. This letter also transmitted three agreements from communities in Nassau County concerning indirect source review.

- October 17, 1984—a letter transmitting four additional agreements from communities in Nassau County and information on New York City's progress in identifying and correcting its carbon monoxide hot spot problems.

- November 30, 1984—a letter transmitting three more agreements from communities in Nassau County and an expanded report concerning the New York City information transmitted on October 17, 1984.

- January 4, 1985—a letter transmitting two more agreements from communities in Nassau County.

- January 24 and 30, 1985—a letter transmitting an Air Guide prepared by NYSDEC which sets forth detailed procedures for implementing indirect source review requirements. These letters also transmitted an additional indirect source review agreement from a community in Nassau County.

- March 6, 1985—a letter transmitting five additional indirect source agreements.

Today's action is based on full consideration of these latest submittals. The submittal by New York of its Air Guide, the New York City program for correcting hotspot problems, and the implementation agreements for eighteen communities in Nassau County enables EPA to take today's final action to approve the New York SIP relating to carbon monoxide. However, it should be noted that the adequacy of the implementation of these agreements and of the New York City hotspot program remains the subject of further EPA review and will be treated in the future in a separate **Federal Register** notice of proposed rulemaking. As noted earlier, today's notice also takes action to finalize EPA's May 1, 1984 proposed approval of the New York SIP with regard to ozone attainment in the entire New York City metropolitan area.

III. Public Comments

A. Introduction

During the public comment period established by its February 3, 1983 proposal, EPA received comments from eight commentators. These comments addressed eleven principal issues. Also, as a result of EPA's May 1, 1984 proposal, five comments which addressed six principal issues were received. A majority of the issues raised by commentators on the February 3, 1983 proposal were resolved by the State in its February 2, 1984 supplemental submission.

Comments are summarized and discussed in this section of today's notice. They are also treated in greater detail in a document entitled, "Technical Support Document: Response to Comments on 1982 Revision to the New York State Implementation Plan, January 1984." This document is available at the locations identified in the **ADDRESSES** section of today's notice.

B. Comments on the February 3, 1983 Proposal

1. Ozone Modeling

Comment: Since atmospheric modeling is not precise, EPA should not require a 60 percent reduction in VOC emissions as being necessary to attain the ozone standard. Instead, the 58 percent reduction that the State claims is reasonable for attainment should be accepted.

Response: In a joint effort, New York, New Jersey and EPA initially determined that a 60 percent reduction in VOC emissions was necessary to attain the ozone standard. However, based on changes to the assumptions about emissions in future years, EPA

currently believes that a 59 percent reduction in VOC emissions is sufficient to attain the ozone standard in the New York City metropolitan area. The New York February 2, 1984 supplemental submission reflects this number, so the issue is now effectively moot. (For a fuller discussion of the substance of this issue, the reader is referred to EPA's May 1, 1984 notice of proposed rulemaking).

Comment: The percentage reduction in VOC emissions identified by the State of Connecticut in its SIP as being necessary for attainment of the ozone standard is much less than that needed for the States of New York and New Jersey, even though all three states are in the same air quality control region.

Response: The attainment demonstration prepared by the Connecticut Department of Environmental Protection is a statewide analysis, using a worst case design value to determine a VOC emission reduction target to be applied in both urban and nonurban areas of the State. While a part of Fairfield County, Connecticut is included in the New Jersey-New York-Connecticut Interstate Air Quality Control Region, Connecticut does not consider this area a part of the New York City metropolitan area for ozone planning purposes.

Consistent with EPA criteria for approval of 1979 SIP revisions (43 FR 21673; May 19, 1978), EPA concurs with Connecticut's position. EPA requires that "urban areas" as defined by the U.S. Bureau of the Census, and all fringe areas of development be used for ozone control strategy planning. No part of Connecticut is within the New York City urban area. Furthermore, EPA does not believe that the southwestern portion of Connecticut can be considered a fringe development area of the New York City metropolitan area because the population and VOC emission densities in these two areas are significantly different from one another and the emission source characteristics of the two areas are also quite different.

2. Air Quality Monitoring

Comment: EPA should withhold approval of the SIP since the air quality data on which it is based was collected at an insufficient number of microscale monitors, particularly in the case of carbon monoxide.

Response: EPA has determined that the State's carbon monoxide hotspot study, along with its monitoring network, is adequate to assess the magnitude and extent of the carbon monoxide problem in the New York City metropolitan area. The ozone monitoring network is also adequate.

3. Emissions Inventory

Comment: The SIP does not include an accurate and current inventory of emissions having an impact on the nonattainment area. Also, annual updates of the inventory are not provided. The updates are necessary in order to indicate emissions growth and progress in reducing emissions from existing sources.

Response: In its February 3, 1983 notice, EPA found the State's emissions inventory for VOCs to be accurate, comprehensive, and consistent with EPA guidance and policy requirements. Moreover, the inventory of carbon monoxide emissions was found to be adequate to define the magnitude and extent of carbon monoxide problems.

Based upon its review of the State's February 2, 1984 supplemental submission, EPA has found that the 1982 SIP revision now has an adequate emissions inventory for carbon monoxide. The supplement also provides a State commitment to track both VOC and carbon monoxide emissions and to provide EPA with annual reports on progress in reducing emissions.

4. Stationary Source Control Measures

Comment: EPA did not adequately address the State's failure to commit to a Stage II vapor recovery program, and should withhold approval of the SIP until the State makes specific commitments to this "proven and cost effective" control strategy.

Response: The February 2, 1984 supplemental submission commits the State to develop and fully implement a Stage II vapor recovery program by December 31, 1987.

Comment: The implementation of a Stage II vapor recovery program in New York is dependent on EPA's publication of a Control Techniques Guideline (CTG) document.

Response: The availability of a CTG document is not prerequisite for EPA acceptance of a State commitment to implement a Stage II vapor recovery program. While EPA recognizes that its publication of such a document would aid New York in its efforts to develop and implement a Stage II vapor recovery program, its absence does not preclude the State from meeting its commitment.

5. Motor Vehicle Inspection and Maintenance (I/M) Program

Comment: EPA should not approve the State's light duty vehicle I/M program until the State fully explores the inclusion in this program of a check to see if the vehicle's emission control system has been tampered with and if

the vehicle's fuel inlet restrictor has been altered to allow the use of leaded fuel.

Response: Although EPA policy does not require an anti-tampering program for approval of a State's I/M program, the State's February 2, 1984 supplemental submission commits the State to develop and implement an anti-tampering program by July 1984. As part of the anti-tampering program, the State will also check to determine that a vehicle's fuel inlet restrictor is present. This program went into effect on July 1, 1984 on model year 1984 and later vehicles.

Comment: EPA should require a clear State commitment to adequate funding of a quality assurance program for the I/M program before approving the SIP.

Response: EPA believes that the NYSDEC and the New York State Department of Motor Vehicles provide sufficient funding for adequate quality assurance for the State's I/M program. Among the activities conducted by the State in this regard are:

- Periodic and random on-site checks of Motor Vehicle Inspection Centers;
- Monthly visits to Motor Vehicle Inspection Centers by a private contractor to perform tests and provide maintenance to ensure emissions gas analyzers are operating properly; and
- The required submission to the State of emissions gas analyzer data tapes, which record the number and types of vehicles tested along with the results of all emissions inspections.

Comment: EPA should not allow the State to reduce the frequency of emission inspections of medallion taxis from the current rate of three times a year.

Response: Although a New York City "Taxi Report" recommends two inspections per year, the 1982 SIP revision makes no reference to reducing the frequency of taxi emission inspections. Consequently, the State is committed to continue the current program of thrice-annual inspection.

Comment: One commentator expressed concern about the delays that have been encountered by the City of New York in returning from a decentralized to a centralized taxi I/M Program.

Response: It appears that implementation of a centralized taxi I/M program has suffered a temporary delay because of a problem in finding an adequate site for centralized inspections. Nevertheless, it should be noted that the SIP does not contain a commitment to a centralized taxi I/M program; rather it commits to inspecting taxis three times a year.

Comment: EPA should expedite the State's request to provide funding for a study of an I/M program for heavy duty gasoline trucks and should withhold its approval of the SIP until the State completes the study and commits to implement such a program. The State is not making a good faith effort to institute an I/M program for heavy duty trucks. No further study is needed to determine this program's reasonableness and EPA should not permit this delay by allowing further study.

Response: EPA has sponsored a study of the economic feasibility of an I/M program for heavy duty trucks. This study was completed in August 1984. This date is consistent with the State's commitment in its February 2, 1984 supplemental submission to develop and begin implementation of an I/M program for heavy duty trucks by January 1, 1985. The I/M program for heavy duty trucks began on February 1, 1985.

Comment: EPA should disapprove the light duty vehicle I/M program contained in the SIP since the State has not adequately considered the deleterious effects of the use of leaded fuel in light duty vehicles requiring the use of unleaded fuel.

Response: Although EPA policy does not require an anti-misfueling program for approval of a State's I/M program, the State in its February 2, 1984 supplemental submission has committed to both an anti-tampering inspection program and to a two-speed emission test. These modifications to the New York I/M program should aid in the detection and discouragement of tampering with emission control equipment and fuel switching for model year 1984 and later vehicles.

Comment: EPA should require New York City to include "gypsy" cabs in its taxi I/M program.

Response: EPA policy does not require taxicabs, or any other light duty vehicle to be inspected at prescribed time intervals. The thrice-annual medallion taxi inspection requirement is not based on EPA policy, but on what the city believed necessary for an effective taxi I/M program. Therefore, EPA cannot require that "gypsy" cabs be included in the thrice annual taxi I/M program. However, gypsy cabs are already subject to the State's annual I/M program. The selection of a specific mix of control strategies necessary for attainment of the air quality standards is a decision that the Clean Air Act generally leaves up to the states.

Comment: EPA should require the State to include in its SIP a thorough examination of emissions from diesel vehicles.

Response: The emission of carbon monoxide and VOCs from diesel vehicles is accounted for in the SIP. EPA policy does not require analysis of emissions from diesel vehicles.

6. Transportation Control Measures

Comment: The State has not committed to transportation control measures that the cities and counties in the New York City metropolitan area found to be reasonably available.

Response: These measures were included in New York's February 2, 1984 supplemental submittal.

7. Basic Transportation Needs

Comment: Consistent with a June 16, 1982 U.S. Court of Appeals decision (Council of Commuter Organization vs. Gorsuch, 683 F.2d 648, 663 (2nd Cir. 1982)) and in accordance with EPA guidance material, EPA should make an independent determination as to the adequacy of the State's definition of its basic transportation needs.

Response: As noted in its May 1, 1984 proposal, EPA has complied with the Court's direction that it make an independent review of the State's submission and has determined that the State's definition of BTN conforms to that contained in a BTN guidance document proposed by EPA and the U.S. Department of Transportation (45 FR 62170; September 18, 1980).

Comment: EPA should determine whether the measures scheduled for implementation in the July 1, 1982 submittal provide for the meeting of BTN by providing for a real improvement in public transportation in 1982 and each year thereafter.

Response: The SIP does not identify any public transportation improvement measures for implementation since none were determined by the State as necessary to meet BTN.

Comment: EPA should evaluate whether the SIP provides implementing details and schedules that are sufficiently specific to enable the monitoring of the State's progress toward the meeting of BTN.

Response: The SIP does not contain implementing details and schedules since no transit improvements were found necessary to meet BTN.

Comment: EPA should determine whether the SIP meets the equivalent emission reduction requirement of section 110(c)(5)(B) of the Clean Air Act and whether remedial actions need to be taken to remedy past failures to satisfy this requirement.

Response: The February 2, 1984 supplemental submission demonstrates that measures committed to in the 1982 SIP revision will meet the cited

equivalent emission reduction requirement beginning in 1986. EPA does not believe that requiring additional interim actions are either practical or necessary.

Comment: Appendix F of the 1982 SIP revision appears to make an adequate demonstration that the transit system provides an emissions reduction equivalent to that from bridge tolls. Therefore, the State has successfully responded to the "equivalency" demonstration required by EPA.

Response: Since in its May 1, 1984 proposal EPA found the State's demonstration of equivalent emission reductions to be acceptable, this comment is no longer applicable. However, it should be noted that Appendix F of the SIP does not contain State commitments.

Comment: The State of New York is not obligated to commit to implement public transportation measures which would provide equivalent emissions reductions for the deleted 1973 bridge toll strategy.

Response: Since EPA now finds that the State's demonstration of equivalent emissions reductions is approvable, this issue is moot.

Comment: EPA should reevaluate the adequacy of the SIP's funding provisions in light of recent federal funding cutbacks and recent developments regarding state aid to mass transit.

Response: The February 2, 1984 supplemental submission does not contain transit funding information. However, since the BTN requirements are being met, no additional funding is needed for meeting them.

Comment: EPA has not been in compliance with either the substance nor the sense of time urgency of the Court of Appeals decision. EPA was to have made its findings with regard to the SIP within four months of submission, or by November 1, 1982. EPA did not make a finding until February 3, 1983. Therefore, EPA did not adequately consider and address the Court of Appeals' directive.

Response: EPA has respected the Court's sense of urgency and has acted as quickly as has been reasonably possible. In preparing its February 3, 1983 proposal, EPA considered on a single schedule the submission from New York State and those from twenty-seven other states. Similarly, in preparing its May 1, 1984 proposal, EPA again considered various submittals and comments in a coordinated fashion. This coordination promoted consistency in EPA's determinations and assured that the decision on any particular submission was not unduly delayed.

EPA believes the commentator errs in assuming that the four-month review period applies to Part D SIP revisions. Only the original SIPs submitted under provisions of section 110(a)(1) of the Clean Air Act were to be reviewed by EPA within four months. Subsequent revisions to the SIPs are governed by section 110(a)(3)(A) of the Act, which does not specify a review period for EPA. The revisions reviewed herein were submitted as part of New York State's Part D SIP for nonattainment areas. While the 1977 amendments to the Clean Air Act provided a separate timetable for the submission of Part D SIP revisions, they set no deadlines for EPA final action. Therefore, EPA only has a duty to act within a reasonable time, as determined by the EPA Administrator.

8. Conformity

Comment: The new metropolitan planning organization (MPO) for the New York City metropolitan area, the New York Metropolitan Transportation Council, has reaffirmed that existing procedures will continue to be used to assess conformity with the SIP. Therefore, EPA's objections to the fact the procedures were missing should now be adequately addressed.

Response: Since, as noted in the February 2, 1984 supplemental submission, the New York Metropolitan Transportation Council continues to use the approved conformity procedures previously adopted by the old MPO, the Tri-State Regional Planning Commission, EPA is withdrawing its original objection.

Comment: EPA's interpretation of section 176(c) of the Clean Air Act, which requires assessment of the conformity of major federal actions with the SIP, is incorrect. The responsibility for determining conformity of non-transportation actions with the SIP is placed only on federal, not local or state government.

Response: EPA agrees that it is the affirmative responsibility of the head of each federal agency to ensure the conformity of major federal actions. However, the EPA criteria for approval of SIPs (46 FR 7181; January 22, 1981) requires that state and local governments should identify the emissions associated with federal actions that will take place during the period covered by the SIP.

9. Consultation

Comment: EPA was incorrect in approving the SIP's program for consultation with state and local officials.

Response: In developing its 1982 SIP revision the State provided a process for consultation with local governments and organizations of local elected officials as required by section 121 of the Clean Air Act. In addition, a joint determination by state and local officials of the roles of various governmental agencies in the SIP's development, implementation, and enforcement was made pursuant to section 174 of the Act. Therefore, EPA believes that it was correct in approving the SIP's program for consultation with state and local officials.

10. General Comments

Comment: The SIP does not include emission limitations, schedules or timetables for compliance with limitations, and such other measures as may be necessary to ensure attainment and maintenance of air quality standards.

Response: In its February 2, 1984 supplemental submission the State provided a comprehensive package of reasonably available and extraordinary control measures sufficient to demonstrate attainment and maintenance of the standards.

Comment: The SIP has failed to identify the automotive air pollution problems at a level of detail adequate for decision making.

Response: For mobile source related emissions of VOCs, EPA is satisfied that there exists an adequate level of information sufficient for informed decision making. This is based on EPA's finding that the SIP's mobile source emissions inventory is adequate. For mobile source related emissions of carbon monoxide, the February 2, 1984 supplemental submission provides adequate information related to vehicular traffic for decision making. The submission also adequately identifies the magnitude and extent of the ambient ozone and carbon monoxide problems.

Comment: The SIP does not provide for adequate financial and human resources, and authority necessary for the implementation of a transportation control program.

Response: In its February 2, 1984 supplemental submission the State commits to implement a program of transportation control measures. These measures replace those contained in the 1979 SIP revision. Adequate resources and authority necessary to implement this program of transportation control measures are identified.

Comment: Neither the 1979 nor the 1982 SIP revision meet any of the following Clean Air Act requirements:

- Demonstrate attainment of the ozone and carbon monoxide standards

as expeditiously as practicable, but no later than 1987.

- Demonstrate reasonable further progress in the period before attainment.

- Provide for the implementation of all reasonably available control measures as expeditiously as practicable, and

- Present a program for selecting a package of transportation control measures to attain the emission reduction target identified in the SIP, which includes adoption of schedules for expeditious implementation of reasonably available transportation control measures.

Response: In its May 1, 1984 notice of proposed rulemaking EPA has found that the control program committed to in the 1982 SIP revision adequately provides for meeting these requirements. For a fuller discussion of the basis of this determination the reader is referred to the May 1, 1984 notice.

Comment: Neither the 1979 nor the 1982 SIP revision contains written evidence that the State, the general purpose local government or governments, or a regional agency designated by general purpose local governments for such purpose, have adopted by statute, regulation, ordinance, or other legally enforceable document, the necessary requirements and statutes for compliance.

Response: The control program committed to in the 1982 submissions and the February 2, 1984 supplemental submission has been found to demonstrate attainment of the ozone and carbon monoxide standards. EPA policy permits approval in cases such as this one of attainment demonstrations based on schedules to submit additional control measures. For a fuller discussion of this policy, the reader is referred to Item 11, National Policy Issues, which appears later in today's notice.

Comment: EPA should ensure that the SIP identifies responsible agencies required to take action to implement identified strategies as scheduled.

Response: The 1982 SIP revision adequately identifies the agencies responsible for implementing the ozone and carbon monoxide control programs.

Comment: The State's technical means of demonstrating reasonable further progress (RFP) is based upon artificial criteria and not on actual and rigorous air quality assessment criteria. The projection of current air quality conditions to 1987 results is nothing more than estimates or guesses as to what the air quality will be like. The State's current demonstration of RFP relies on old and incomplete air quality data. RFP should be reported in terms of

actual measured pollutant concentrations and not in terms of current and future guesses.

Response: The February 2, 1984 supplemental submission commits the State to submit annually a comprehensive report to EPA describing the ozone and carbon monoxide emission reductions achieved during the calendar year through the implementation of control measures on point sources, area sources, and mobile sources of air pollution. Actual emission reductions calculated for the calendar year will be compared with those predicted in the SIP. Shortfalls in emission reductions, if any, will be discussed in the annual report as to their effect on RFP towards attainment of the ozone and carbon monoxide standards. Also, a major part of this RFP report will be devoted to reviewing air quality data collected through ambient monitoring.

The State supplemented its air quality monitoring network with a study to determine carbon monoxide concentrations in the nonattainment areas in New York City and Westchester and Nassau Counties. Through the application of the State Environmental Quality Review Act and New York City Environmental Quality Review procedures, proposed major projects will be reviewed for their air quality effects. In addition, as part of the annual RFP report, the State will review the effect of growth, changing traffic patterns, the conservativeness of the predictive atmospheric models, and the accuracy of modeling data on the attainment demonstration for carbon monoxide.

Comment: Since the SIP is inadequate, funding limitations under section 176 of the Clean Air Act should be imposed.

Response: Based upon its review of the February 2, 1984 supplemental submission, EPA has found that the 1982 SIP revision is adequate. Therefore, it is not appropriate for EPA to consider the imposition of section 176(a) funding limitations for the majority of the area covered by the SIP.

11. National Policy Issues

Comment: The SIP does not contain enforceable measures which will ensure attainment of air quality standards by 1987. Some of the measures contained in the SIP were not enforceable or were not adopted at the time of SIP submittal.

Response: As discussed in its February 3, 1983 proposal, EPA intends to be appropriately flexible in reviewing SIP submittals. In some cases, if a State submits sufficient enforceable measures to provide for reasonable further progress during the first few years of the extended attainment period, EPA will

accept schedules for the submittal of the other measures needed to provide additional emission reductions in the remaining years. These schedules, however, must represent genuine commitments to develop, describe in detail, and adopt needed controls.

Other comments relating to national policy issues were received. For a discussion of these comments the reader is referred to the "Technical Support Document: Response to Comments on 1982 Revision to the New York State Implementation Plan, January 1985." This document is available at the locations identified in the ADDRESSES section of today's notice.

C. Comments on the May 1, 1984 Proposal

Comment: A commentator questioned the feasibility of controlling VOC emissions resulting from the use of architectural coatings and from automotive refinishing operations. In addition, commentators requested that certain products which contain VOCs be exempt from the SIP's architectural coatings and consumer/commercial solvent use control requirements.

Response: The SIP commits the State to conduct studies on its automotive refinishing, architectural coating and consumer/commercial solvent use measures prior to the development of specific controls. As yet, no specific coatings or products have been excluded by the State from consideration for control. However, the State indicates that VOC reductions resulting from some coating and products may not prove feasible.

Comment: The State has indicated that its schedule for the development of an I/M program to control emissions of heavy duty trucks will be modified due to a delay in the preparation of a final report on the subject.

Response: Since the cited delay will not change the implementation date of this measure, the SIP's demonstration of attainment remains unaffected.

Comment: The State has indicated that it lacks appropriate expertise and resources to evaluate and develop the consumer/commercial solvent use measure. The State has requested EPA's assistance.

Response: EPA will require the State to amend the schedule in its SIP for development of this measure. However, the December 1987 implementation date for such controls remains unchanged. EPA intends to work with the State to provide technical assistance for the development of this measure.

IV. Conclusion

Based on its review of the submitted documents and the comments received, EPA finds that the 1982 revision to the New York SIP adequately provides for the attainment by December 31, 1987, and maintenance thereafter, of the air quality standards for ozone and carbon monoxide in the New York City metropolitan area. Therefore, EPA is approving the New York SIP as it relates to the following nonattainment areas and pollutants:

Nonattainment Area for Ozone:

- City of New York.
- Nassau County.
- Suffolk County.
- Westchester County.
- Rockland County.

Nonattainment Area for Carbon Monoxide:

- City of New York (except for the northwestern part of Richmond County).
- The following communities, or parts thereof, located within Nassau County south of the Long Island Expressway, west of the Oyster Bay Expressway, and north of the Southern State Parkway:

—Town of Hempstead,
—Town of North Hempstead,
—Town of Oyster Bay,
—Village of Lake Success,
—Village of Williston Park,
—Village of North Hills,
—Village of Mineola,
—Village of Hempstead,
—Village of Westbury,
—Village of New Hyde Park,
—Village of East Williston,
—Village of Old Westbury,
—Village of Floral Park,
—Village of East Hills,
—Village of South Floral Park,
—Village of Stewart Manor,
—Village of Bellerose, and
—Village of Garden City.

- The Cities of Yonkers and Mount Vernon in Westchester County.

EPA is incorporating into the SIP the State's current version of Part 232, Dry Cleaning. While the State has not demonstrated that Part 232 provides for RACT, the State has committed to its revision and has provided a schedule for this effort. These revisions have been delayed by the State up until this time because EPA is examining the reactivity of perchloroethylene (See 48 FR 49097, October 24, 1983). If perchloroethylene is found not to be reactive, the SIP will provide for attainment of the ozone standard without Part 232, and revisions to Part 232 will not be necessary for this purpose.

EPA is also revoking the last remaining condition on its approval of New York's 1979 SIP revision,

promulgated at 40 CFR 52.1674(f)(2). This condition is related to development of an acceptable VOC emissions inventory for the New York City metropolitan area. The revoking of this condition provides for full approval of the 1979 SIP for attainment of the ozone and carbon monoxide standards in the New Jersey-New York-Connecticut Interstate Air Quality Control Region. Consequently, this action removes the limitation on the construction or modification of major VOC sources in the Air Quality Control Region. This limitation was in effect as a result of the provisions of section 110(a)(2)(I) of the Clean Air Act, which imposes such limitations on areas which do not have in effect a SIP which meets the requirements of Part D. The U.S. Court of Appeals for the Second Circuit has held that the construction moratorium required under section 110(a)(2)(I) must remain in effect until a state satisfies all conditions imposed by EPA on approval of its SIP. (See *Connecticut Fund for the Environment v. EPA*, 672 F.2d 998, 10007-10 (2nd Cir. 1982), and *Council of Commuter Organizations v. Gorsuch*, 683 F.2d 648, 662 (2nd Cir. 1982)).

Today's action is being made effective immediately since the SIP revision being approved is already in effect and EPA approval imposes no additional regulatory burden.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the U.S. Court of Appeals for the appropriate circuit within 60 days of today. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Intergovernmental relations, Air pollution control agency, Incorporation by reference, Ozone, Carbon monoxide, Hydrocarbons.

Note.—Incorporation by reference of the State Implementation Plan for the State of New York was approved by the Director of the Federal Register on July 1, 1982.

Dated: June 4, 1985.

Lee M. Thomas,

Administrator, Environmental Protection Agency.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Chapter I, Subchapter C, Part 52 of the Code of Federal Regulations is amended as follows:

Subpart HH—New York

1. The authority for Part 52 continues to read:

Authority: 42 U.S.C. 7401-7642.

1a. Section 52.1670 paragraph (c) is amended by adding new paragraph (c)(72) as follows:

§ 52.1670 Identification of Plan.

(c) The plan revisions listed below were submitted on the dates specified.

(72) Revisions to the New York State Implementation Plan for attainment and maintenance of the ozone and carbon monoxide standards in the New York City metropolitan area submitted on July 1, 1982, August 3, 1982, July 25, 1983, February 7, 15, 17, 1984, and October 1, 17, 1984, November 30, 1984, January 4, and 30, 1985 and March 6, 1985 by the Governor of New York State and by the New York State Department of Environmental Conservation.

2. Section 52.1673 is amended by revising the entire section follows:

§ 52.1673 Approval status.

(a) With the exceptions set forth in this section, the Administrator approves the New York State Implementation Plan (SIP) for the attainment and maintenance of the national standards under section 110(a)(2) of the Clean Air Act. Furthermore, the Administrator finds that the plan satisfies all requirements of Part D, Title I of the Clean Air Act, as amended in 1977. In addition, continued satisfaction of the requirements of Part D for the ozone element of the SIP depends on the adoption and submittal of requirements for reasonable available control technology (RACT) by January 1985 and adoption and submittal by each subsequent January of additional RACT requirements for sources covered by Control Techniques Guidelines (CTGs) issued by the previous January.

(b) The New York SIP is disapproved for the attainment and maintenance of the national standards for particulate matter as it relates to the Niagara Frontier Air Quality Control Region.

§ 52.1674 [Removed]

3. Section 52.1674 is removed in its entirety.

4. Section 52.1679 is amended by adding a new entry for Part 232 to the Table in numerical order as follows:

§ 52.1679 EPA-approved New York State regulations.

| New York State regulation | State effective date | Latest EPA approval date | Comments |
|---------------------------|----------------------|--|--|
| Part 232, Dry Cleaning | 8/11/83 | June 17, 1985 (Citation of this notice) | EPA has not determined that § 232.3(a) provides for reasonably available control technology. |

5. Section 52.1682 is amended by revising footnote "d" of the Table as follows:

§ 52.1682 Attainment dates for national standards.

d. December 31, 1987 or such earlier date as defined in the plan revision approved on June 17, 1985.

[FR Doc. 85-14384 Filed 6-14-85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 435, 436, 440, and 441

[BERC-182-CN]

Medicaid Program; Home and Community Based Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of final rule.

SUMMARY: This document corrects technical errors that appeared in the final rule published in the *Federal Register* on March 13, 1985 (50 FR 10013) on home and community-based services.

FOR FURTHER INFORMATION CONTACT: Robert Wren, (301) 594-9690.

SUPPLEMENTARY INFORMATION: In *Federal Register* Document 85-5715 beginning on page 10013, in the issue of March 13, 1985, make the following corrections:

1. On page 10015, the explanation for factor D on line nine of the second column is corrected by replacing the word "Medicare" with "Medicaid".

2. On page 10015, the symbol "<" that appears in the equations is intended to mean that the result of the left sides of the equations must be less than or equal to the results of the right sides of the equations.

3. On page 10018, line 5 of the last paragraph in the third column is

corrected by replacing the word "review" with "renew".

4. On page 10019, lines two and three of the last paragraph in the third column are corrected by replacing the word "waiver" with "waivers" and removing the word "applications".

This correction clarifies our original intent that the changes published in the final regulations apply to *all waivers* unless otherwise indicated.

5. On page 10020, line three of the fourth full paragraph in the third column is corrected by replacing the word "of" with "for".

6. On page 10022, lines 16 and 17 of the first column are corrected by replacing the period after "reference" on line 16 with a comma and removing the paragraph indentation on line 17. As corrected, the sentence beginning on

line 14 of the first column reads as follows:

Consequently, we do not believe that the Conference Committee Reports's general reference, "The conference agreement follows the House provision", should be viewed as an endorsement of the "one-time waiver of Statewideness" which was part of the House bill.

7. On page 10024, under *Annual State Reports*, in the second column, line 2 of the *Response* is corrected by replacing the words "will be" with "is being".

8. On page 10025, the last line of the first indented paragraph "Medicare savings" is corrected by replacing the word "Medicare" with "Medicaid".

9. On page 10027, § 441.303 is corrected to add the following footnote to the equation:

"¹ The symbol " \leq " is intended to mean that the result of the left side of the equation must be less than or equal to the result of the right side of the equation."

§ 441.304 [Corrected]

10. On page 10028, in the second column, line 9 of § 441.304(d) is corrected by replacing the period after the word "hearing" with a comma.

(Sec. 1102 of the Social Security Act; 42 U.S.C. 1302)

(Catalog of Federal Assistance Program No. 13.714, Medical Assistance Program)

Dated: June 10, 1985.

K. Jacqueline Holz,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 85-14478 Filed 6-14-85; 9:59 am]

BILLING CODE 4120-01-M

Proposed Rules

Federal Register

Vol. 50, No. 116

Monday, June 17, 1985

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 85-056]

Importation of Birds

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Reopening of comment period for proposed rule.

SUMMARY: A document published in the Federal Register on May 3, 1985, proposed to amend the regulations governing the importation of animals by establishing provisions to allow birds originating in the United States and the offspring from such birds to be imported into the United States from an approved breeding facility, without quarantine in the United States, under specified conditions. This document reopens the comment period for this proposed rule. The reopening of the comment period is needed to allow industry representatives and other interested persons adequate time in which to prepare comments.

DATE: Written comments must be received on or before July 17, 1985.

ADDRESS: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should state that they are in response to Docket Number 84-087. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Samuel S. Richeson, Import-Export Animals and Products Staff, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 843, Federal Building,

6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8172.

SUPPLEMENTARY INFORMATION: On May 3, 1985, the Department published in the Federal Register (50 FR 18865-18869) a document which proposed to amend the regulations governing the importation of animals by establishing provisions to allow birds originating in the United States and the offspring from such birds to be imported into the United States from an approved breeding facility, without quarantine in the United States, under specified conditions.

The proposed rule provided for receipt of comments on or before June 3, 1985. However, a number of industry representatives and other interested persons have requested additional time to review the proposal and offer comments. Some requested that the comment period be reopened for 90 days, others for 30 days, and others did not specify a number of days. The Department is interested in receiving meaningful comments and encourages active public participation in this rulemaking process. The Department is also interested in avoiding any unnecessary delay in this rulemaking process. The comment period has already been open for 30 days. It has been determined that an additional 30 days should provide persons an adequate opportunity to provide meaningful comments. Therefore, the comment period is reopened for 30 days. Accordingly, any additional written comments must be received on or before July 17, 1985.

Done at Washington, D.C., this 11th day of June 1985.

B.G. Johnson,

Deputy Administrator, Veterinary Services.

[FR Doc. 85-14428 Filed 6-14-85; 8:45 am]

BILLING CODE 3410-34-M

Food Safety and Inspection Service

9 CFR Parts 318 and 381

[Docket No. 80-009E]

Accredited Laboratory Program

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed Rule, Extension of Comment Period.

SUMMARY: On April 18, 1985, the Food Safety and Inspection Service (FSIS)

published a proposed rule to amend the Federal meat and poultry products inspection regulations to establish standards and procedures for the accreditation of non-Federal analytical chemistry laboratories. FSIS has been requested to extend the comment period to allow more time for reviewing the proposed rule. FSIS is hereby extending the comment period for 90 days.

DATE: Comments must be received on or before September 16, 1985.

ADDRESS: Written comments to: Policy Office, Attn: Annie Johnson, FSIS Hearing Clerk, Room 3803, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. H. James Barth, Staff Officer, Chemistry Division, Science Program, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-5850.

SUPPLEMENTARY INFORMATION: On April 18, 1985, FSIS published in the Federal Register (50 FR 15435-15453) a proposed rule which, if adopted, would amend the Federal meat and poultry products inspection regulations to establish standards and procedures for accrediting non-Federal chemistry laboratories for the analysis of meat and poultry product samples for specific chemical residues, and for protein, moisture, fat, and salt content. The Agency anticipates that this action would increase the number of non-Federal analytical laboratories available to perform analyses, and consequently, would result in more timely analyses. Interested persons were given until June 17, 1985, to comment on this proposal. FSIS has been requested to extend the comment period for an additional 90 days due to the complexity of the proposed rule and the need for further clarification. In view of the importance of this proposal, FSIS is interested in receiving additional data and has decided to extend the comment period until September 16, 1985.

Done at Washington, D.C., on: June 12, 1985.

L.L. Gast,

Acting Administrator, Food Safety and Inspection Service.

[FR Doc. 85-14512 Filed 6-14-85; 8:45 am]

BILLING CODE 3410-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

All-Terrain Vehicles; Advance Notice of Proposed Rulemaking; Request for Comments and Data

Correction

In FR Doc. 85-13107, beginning on page 23139 in the issue of Friday, May 31, 1985, make the following corrections:

1. On page 23142, first column, the twelfth line of paragraph 1.a. should have read "instruction standard can only be issued if the Commission finds that the standard is reasonably"; also in paragraph 1.b., in the fourth and tenth lines, "FHSA" should have read "FHSA".

2. On the same page, second column, first complete paragraph, in the fourth line, "and FHSA" should have read "the FHSA"; and the thirteenth line should have read "proceeding. For example, the Commission must terminate this proceeding if it finds that a voluntary".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 61

Preparation of Rolls of Indians

May 14, 1985.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs (BIA) is proposing to revise the regulations contained in Part 61 governing the compilation of rolls of Indians by the Secretary of the Interior when required to do so by statutory authority. The regulations have been made specifically applicable for the preparation of particular rolls of Indians by amendments to the section dealing with qualifications for enrollment and the deadline for filing applications. As a result of court decisions, organizational changes, policy changes, and new statutes and directives, there is need to make general administrative changes to the regulations. In addition, certain rolls which were to be prepared under the existing regulations have been completed eliminating the need for the amendments governing these particular rolls. The proposed revision, thus, is intended to generally update the regulations. Also, the qualifications for enrollment and the deadline for filing

applications for three additional rolls of Indians which the Secretary has been required by statute to prepare need to be added in the appropriate section. The three additional rolls to be prepared are of the Pembina Band of Chippewa Indians, the Cherokee Band of Shawnee Indians, and the Miami Indians of Indiana. This Part has been previously redesignated from 25 CFR Part 41 at 47 FR 13327, March 30, 1982.

DATE: Comments must be received on or before July 17, 1985.

ADDRESS: Written comments should be directed to the Division of Tribal Government Services, Bureau of Indian Affairs, Main Interior Building, Room 1352, 1951 Constitution Avenue NW., Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT: Kathleen L. Slover, Branch of Tribal Enrollment Services, Division of Tribal Government Services, Bureau of Indian Affairs, Main Interior Building, Room 1352, 1951 Constitution Avenue NW., Washington D.C. 20245, telephone number: (202) 343-3594 (FTS: 343-3594).

SUPPLEMENTARY INFORMATION: This proposed revision to a rule is published in exercise of the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

The Secretary is authorized and directed on a continuous basis to prepare specific rolls of Indians which are used as the basis for the distribution of judgment funds. By adopting a set of general regulations which can be made specifically applicable, the need to promulgate separate repetitious rules for each roll prepared is eliminated. The regulations contained in Part 61 serve the purpose of general regulations. However, as a result of court decisions, organizational changes, policy changes, and new statutes and directives, the regulations do need to be generally revised.

Certain points regarding the regulations contained in Part 61 and this proposed revision should be emphasized. The regulations are not automatically applicable to every roll of Indians prepared nor are the regulations automatically applicable to every roll of Indians the Secretary is directed to prepare. The regulations are not intended in any way to limit or infringe on tribal authority and control with regard to membership. As a part of the general revisions, additional and alternate procedures to be followed in the preparation of rolls of Indians are being proposed. However, the additional procedures are procedures which the BIA staff must follow in the preparation of rolls. There is no increase in the

burden on individuals affected by the regulations. In fact, the alternate procedures being proposed in some instances relieve the burden on individuals affected by the regulations.

The policy of the Department of the Interior is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding this proposed revision.

The primary author of this proposed revision of Part 61 is Kathleen L. Slover, Branch of Tribal Enrollment Services, Division of Tribal Government Services, Bureau of Indian Affairs.

Additional Rolls To Be Prepared

As a part of the general revision being proposed, the regulations contained in this Part 61 are, in essence, being amended to make the rules specifically applicable to the preparation of the following three rolls of Indians:

1. Pembina Band of Chippewa Indians

The Pembina Band of Chippewa Indians were awarded judgment funds in dockets numbered 113, 191, 221, and 246 by the U.S. Court of Claims. Funds to satisfy the awards were appropriated by Congress. The Act of December 31, 1982, Pub. L. 97-403, 96 Stat. 2022, authorized the use and distribution of the judgment funds.

The Act of December 31, 1982, directs that the judgment funds be apportioned among the following groups on the basis of their respective numbers: the Turtle Mountain Band of Chippewa Indians, the Chippewa Cree Tribe of the Rocky Boy's Reservation, the Minnesota Chippewa Tribe, the Little Shell Band of Chippewa Indians of Montana, and the nonmember Pembina descendants (as a group), that is, individuals of Pembina Chippewa descent who are not enrolled members of the other named groups.

For the purposes of apportioning and making the per capita distribution to the nonmember Pembina Chippewa descendants, the Secretary has been directed to prepare a roll. In order to establish eligibility for inclusion on the roll, persons must, among other requirements, be born on or before and living on the date of the Act, be citizens of the United States, and be able to establish that they possess at least one quarter degree Pembina Chippewa blood.

The proposed revised regulations require in § 61.4(b), that applications for enrollment must be filed with the Superintendent, Turtle Mountain Agency, Bureau of Indian Affairs, and must be received by close of business on

the date specified to establish eligibility. Applications received after that date will be rejected for failure to file on time regardless of whether the applicants otherwise meet the requirements for enrollment.

In addition to general public notice, to provide actual notice of the preparation of the roll to as many potentially eligible beneficiaries as possible, the Superintendent, Turtle Mountain Agency, Bureau of Indian Affairs, shall send notices in accordance with proposed revised § 61.5(c) to all persons whose names appear on the roll of the Pembina Band of Chippewa Indians prepared pursuant to the Act of July 29, 1971 (85 Stat. 158), at the last address of record. Notices shall advise of the preparation of the roll and the relevant procedures to be followed including the requirements for enrollment and the deadline date for filing applications in order to be eligible for enrollment.

2. Cherokee Band of Shawnee Indians

The Shawnee Tribe of Indians was awarded judgment funds in dockets 64, 335, and 338 by the Indian Claims Commission and docket 64-A by the U.S. Court of Claims. Funds to satisfy the awards were appropriated by Congress. The Act of December 20, 1982, Pub. L. 97-372, 96 Stat. 1815, authorized the use and distribution of the judgment funds.

The Act of December 20, 1982, directed that the funds be divided on the basis of stated proportions between the Absentee Shawnee Tribe of Oklahoma, the Eastern Shawnee Tribe of Oklahoma, and the Cherokee Band of Shawnee descendants. For the purposes of making a per capita distribution of the Cherokee Band of Shawnee descendants' share of the funds, the Secretary has been directed to prepare a roll of all persons of Cherokee Shawnee ancestry who, among other requirements, were born on or before and living on the date of the Act and are lineal descendants of the Shawnee Nation as it existed in 1854, based on the roll of the Cherokee Shawnee compiled pursuant to the Act of March 2, 1889 (25 Stat. 994). Persons who are enrolled members of the Absentee Shawnee Tribe of Oklahoma or the Eastern Shawnee Tribe of Oklahoma are not eligible for enrollment.

To establish eligibility for inclusion on the roll of the Cherokee Band of Shawnee descendants, the proposed revised regulations require § 61.4(c) that applications for enrollment must be filed with the Director, Muskogee Area Office, Bureau of Indian Affairs, and must be received by the Director by close of business on the date specified.

Applications received after that date will be rejected for inclusion on the roll being prepared for failure to file on time regardless of whether the applicants otherwise meet the requirements for enrollment.

In addition to general public notice, to provide actual notice of the preparation of the roll to as many potentially eligible beneficiaries as possible, the Director, Muskogee Area Office, Bureau of Indian Affairs, shall send notices in accordance with proposed revised § 61.5(c) to all persons whose names appear on the roll of the Cherokee band of Shawnee Indians prepared in accordance with a Plan prepared pursuant to the Indian Judgment Funds Distribution Act, as amended, and effective March 5, 1976, at their last address of record. Notices shall advise of the preparation for the roll and the relevant procedures to be followed including the requirements for enrollment and the deadline for filing applications in order to be eligible for enrollment.

3. Miami Indians of Indiana

The Miami Tribe of Oklahoma and the Miami Indians of Indiana and other Miami descendants were awarded judgment funds in dockets 124-B and 254 by the U.S. Court of Claims. Funds to satisfy the awards were appropriated by Congress. The Act of December 21, 1982, Pub. L. 97-376, 96 Stat. 1828, authorized the use and distribution of the judgment funds.

The Act of December 21, 1982, directed that the funds be divided on the basis of stated proportions between the Miami Tribe of Oklahoma and the descendant group of Miami Indians and other Miami Indian descendants. For the purposes of making a per capita distribution of the apportioned share to the descendant group of Miami Indians, the Secretary has been directed to prepare a roll of all persons of Miami Indian ancestry who, among other requirements, were born on or before and living on the date of the Act and whose name or the name of a lineal ancestor appears on one of the rolls specified in the Act. Persons who are members of the Miami Tribe of Oklahoma are not eligible for inclusion on the roll of Miami Indian descendants.

The Act of December 21, 1982, also provides that to establish eligibility for enrollment, individuals must file or have filed on their behalf applications with the Director, Muskogee Area Office, Bureau of Indian Affairs. The proposed revised regulations require in § 61.4(d) that applications for enrollment must be received by the Director by close of business on the date specified to establish eligibility. Applications

received after that date will be rejected for failure to file on time regardless of whether the applicants otherwise meet the requirements for enrollment.

In addition to general public notice, to provide actual notice of the preparation of the roll to as many potentially eligible beneficiaries as possible, the Director, Muskogee Area Office, Bureau of Indian Affairs, shall send notices in accordance with proposed revised § 61.5(c) to all persons whose names appear on the roll of Miami Indians of Indiana and Oklahoma, except those who are enrolled members of the Miami Tribe of Oklahoma, prepared pursuant to the Act of June 2, 1972, Pub. L. 92-309, 86 Stat. 199, at the last address of record. Notices shall advise individuals of the preparation of the roll and the relevant procedures to be followed including the requirements for enrollment and the deadline date for filing applications to be eligible for enrollment.

Summary of Changes Proposed

Because of the extensive number of changes being made in the proposed revision, the following section-by-section analysis of the changes is being given. The proposed revised section designations will be used to discuss the changes to the regulations. Note should be made of one change that occurs throughout the regulations. Where the current regulations have referred to the "Director," "Director or Superintendent" has been substituted in the proposed revision. This is because in the preparation of some rolls, such as the Pembina Band of Chippewa Indians, it is a Superintendent who is actually responsible for the roll. The fact that the regulations state "Director" has been confusing. The change, however, is as a clarification and is not intended to represent any changes in the authority of Directors or Superintendents in the BIA.

Section 61.1 Definitions.

The proposed revised § 61.1 corresponds to the current § 61.1. Sex-based and gender specific terminology has been eliminated from all definitions. Definitions have been added for "Adopted person," "Approved roll," "Assistant Secretary," "Enrollee(s)," "Living," and "Tribal Governing Document." A definition has also been added for "Plan" as a result of the enactment of the Indian Judgment Funds Distribution Act of October 19, 1973, Pub. L. 93-134, 87 Stat. 466, 25 U.S.C. 1401 et seq., as amended. Under the Act, "Plans" to authorize the use and distribution of Indian judgment funds

are prepared and submitted to Congress by the Secretary.

Section 61.2 Purpose.

The proposed revised § 61.2 corresponds to the current § 61.2. In the interest of clarification, the first sentence has been slightly changed to state that the purpose is to govern the compilation of rolls of Indians by the Secretary as opposed to rolls of Indian tribes. The regulations can still be applicable to the preparation of a roll of an Indian tribe when the Secretary is so directed. However, the majority of rolls that the BIA actually prepares are of descendant groups of some historical tribal entity or some portion of an historical entity. The preparation of descendancy rolls under this Part 61 is not now nor has it ever been intended to create or be construed as creating a tribal entity. The rolls compiled are only to serve as the basis for the distribution of judgment funds. Consequently, the word "tribes" has been eliminated to prevent any possible confusion or misunderstanding.

Section 61.3 Information collection.

The proposed revised § 61.3 is a new section and is administrative in nature.

Section 61.4 Qualifications for enrollment and the deadline for filing applications.

The proposed revised § 61.4 corresponds to the current § 61.3. In addition to the provision that specific requirements to be met for particular rolls will be included by amendment to this section, an exception has been added in the proposed revision. The exception has been added to eliminate the need for amendment to this section for specific applicability when an Act or Plan states the qualifications for enrollment and the deadline for filing applications and directs that the procedures contained in this Part 61 be followed in the preparation of the roll. These requirements must be met before the regulations in this Part 61 are applicable. Not only do the qualifications for enrollment and the deadline for filing applications have to appear in the Act or Plan, but the Act or Plan must also specify the regulations contained in this Part 61 will apply. Otherwise the regulations will not be applicable to the preparation of a particular roll of Indians unless the regulations are appropriately amended.

In the nature of a "grandfather clause," for those rolls which are currently being prepared in accordance with the regulations contained in this Part 61, a proviso is being added in the proposed revision. The proviso applies

only to the preparation of the six rolls specified: The Mdewakanton and Wahpakoota Tribe of Sioux Indians, the Sisseton and Wahpeton Mississippi Sioux Tribe, Lower Skagit Tribe of Indians, Kikiallus Tribe of Indians, Swinomish Tribe of Indians, and the Samish Tribe of Indians. To the extent practical, it is intended that the revised regulations be followed. However, certain actions with regard to the preparation of the six specified rolls have already been completed and it would be impractical if not very confusing to the public for the BIA to repeat an action in accordance with the procedures contained in the proposed revisions.

A new paragraph (b), as well as (c) and (d) are being added to the proposed revised § 61.4 to specify the qualifications for enrollment and the deadline for filing applications for the following rolls which were discussed, above, under additional rolls to be prepared:

(b) Pembina Band of Chippewa Indians

(c) Cherokee Band of Shawnee Indians

(d) Miami Indians of Indiana

The rolls have been completed and there is no further need for or applicability of the following paragraphs which are being removed from the proposed revision:

(e) Snohomish, Upper Skagit, Snoqualmie, and Skykomish Tribes of Indians

(f) Northern Paiute Indians

(g) Cherokee Band of Shawnee Indians

(h) Saginaw, Swan Creek, and Black River Bands of Chippewa Indians

(i) Potawatomi Indians of Michigan and Indiana

Section 61.5 Notices.

The proposed revised § 61.5 is a new section. In the case of *Roger v. United States*, 679 F.2d 886 (1983), the U.S. Court of Appeals for the Ninth Circuit held that the Secretary was required to promulgate regulations governing the procedures the BIA would follow to provide adequate notice to all potential beneficiaries of any judgment Plan prepared under the Indian Judgment Funds Distribution Act, as amended. Section 61.5 of the proposed revision is basically a formalization of the procedures that the BIA does follow to publicize the preparation of a particular roll of Indians under statutory authority. The same procedures are and should be followed whether the BIA is implementing a Plan or Act. Contrary to popular opinion, the BIA has no comprehensive listing of all persons in

the United States who possess Indian blood. The whole purpose of preparing a roll is, in fact, to determine who the actual beneficiaries are. Consequently, no matter what procedures the BIA might follow or what actions might be taken, realistically, there is no way each and every potentially eligible beneficiary can ever receive actual notice of the preparation of a roll and the relevant procedures to be followed.

The proposed revised § 61.5 provides for the circulation of notices for public display in BIA field offices throughout the United States and in community buildings, tribal buildings, and Indian centers. Notices will be published in appropriate locales on the basis of available residence data. Where there exists a previously prepared membership roll or membership records or a previously prepared Secretarial roll of persons who are potentially eligible beneficiaries, when practical, notices will be mailed to the individuals whose names appear in the records or on the previous roll. Notices will advise individuals of the preparation of the roll and the relevant procedures to be followed including the qualifications for enrollment and the deadline for filing applications.

Section 61.6 Application forms.

Section 61.4 Application forms and 61.5 Filing of applications of the current regulations have been consolidated into § 61.6 of the proposed revision. The current § 61.4 has been included in its entirety. However, most of § 61.5 of the current regulations has been eliminated. As currently written § 61.5 could be interpreted to be restrictive. Certain categories of individuals on whose behalf sponsored applications may be filed are stated. However, there is no indication of whether applications may be filed on behalf of other persons who do not fall under the categories given. The intent and current policy of the BIA is not to restrict on whose behalf sponsored applications may be filed. The BIA accepts sponsored applications filed on anyone's behalf. Thus, the proposed revision merely states that application forms may be filed by sponsors on behalf of other persons.

The proposed revision adds the provision that the application forms shall contain a certification that the information given is true to the best of the knowledge and belief of the person filing the application. The BIA has been including such a certification on its application forms for some time. However, the certification has not been previously specified in the regulations. The reference to the statute providing

for criminal penalties for filing false information in the text of the proposed revision is currently in the regulations as a footnote to paragraph (a) of § 61.5.

Section 61.6 of the proposed revision also adds a paragraph stating the responsibility of the applicant or sponsor to keep the Director or Superintendent advised of a current address for the applicant. It is to the applicant's benefit that the Director or Superintendent has a current mailing address for the person. Applicants do need to be contacted sometimes for additional information which can affect their eligibility or contacted concerning the determination of eligibility on their applications. And ultimately, if an applicant is determined eligible for enrollment, an incorrect or out-of-date address can delay receipt of a per capita payment.

Section 61.7 Verification forms.

The proposed revised § 61.7 is a new section. The Secretary is directed by statutory authority from time to time to update a previously prepared roll for the purposes of distributing judgment funds. Persons whose names are included on the previously prepared roll are not required to file another application to establish eligibility for the new roll being prepared. However, it is necessary to verify their current names and whereabouts and whether they are still living. A verification form is used for this purpose. The restriction that the form be signed by the adult enrollee or the parent or legal guardian of a minor is included because records relating to the preparation or rolls by the Secretary have been determined to be covered by the provisions of the Privacy Act.

The use of verification forms in the preparation of rolls in the past has required the promulgation of a separate Part which is repetitive of the regulations contained in this Part 61. By including procedures for the use of verification forms in this Part 61, it is intended to eliminate the need to promulgate separate parts in the future. It should be noted that this proposed revised § 61.7 will not necessarily apply to all the rolls prepared by the BIA under the regulations in this Part 61. For example, for the three rolls to be prepared under paragraphs (b), (c), and (d) of proposed revised § 61.4, individuals must file application forms and the application forms must be received before the deadline specified to establish eligibility for enrollment even though their names may appear on a roll that was previously prepared by the Secretary.

Section 61.8 Burden of proof.

The proposed revised § 61.8 corresponds to the current § 61.6. Only minor changes of an editorial nature have been made. The burden of proof has been and continues to be on individuals to establish their eligibility for enrollment.

Section 61.9 Review of applications by tribal authorities.

Section 61.9 of the proposed revision is an expansion on the current § 61.7. Again, this proposed revised section, like the current corresponding section, will not necessarily be applicable to all rolls prepared under the regulations in this Part 61. Unless otherwise specified by the authorizing Act or Plan, review by tribal authorities is only intended to apply in those instances where a federally recognized tribe, band, pueblo, group, or community of Indians is involved. Where a membership roll is being prepared, review by tribal authorities is intended to provide for maximum tribal participation in the enrollment process even though the Secretary may actually be responsible for the preparation of the roll.

An exception to review by tribal authorities has been made in the case of adopted children where the BIA has assured confidentiality in order to obtain the information necessary to determine the eligibility for enrollment of the individual or has the statutory obligation to maintain the confidentiality of the records. This exception is included for consistency with the provisions of the Indian Child Welfare Act of November 8, 1978, Pub. L. 95-608, 92 Stat. 3069, 25 U.S.C. 1901 et seq. State courts entering a final decree or order in any Indian child adoptive placement after November 8, 1978, are required to furnish the Secretary certain information concerning natural parentage and tribal affiliation (25 U.S.C. 1951). In some instances, the Secretary may release such information to tribal authorities as may be necessary for the enrollment of the Indian child in a tribe. However, in other instances, the Secretary is prohibited from releasing the necessary information and is directed to certify as to the eligibility of the child for enrollment in the tribe.

The current § 61.7 is rather vague and is not really adequate from a procedural standpoint. The proposed revised § 61.9 provides more definite procedures to be followed. The procedures contained in the proposed revision are intended to be relatively adaptable or compatible with enrollment procedures a tribe might already have in effect. Although the term "Tribal Committee" is used, the

definition contained in proposed revised § 61.1, states that for the purposes of the regulations, "Tribal Committee" means the body of a federally recognized tribal entity vested with final authority to act on enrollment matters. Consequently, what is referred to as a "Tribal Committee" in the regulations could, in fact, be a tribal council, the adult membership in general, or an autonomous enrollment committee, which every body or entity has the ultimate authority to determine the eligibility of individuals for membership in the tribe. Some tribes do have enrollment committees who review applications for membership and make recommendations to the tribal council, which in turn has final authority. Such tribal procedures could still be followed by the tribe and not be inconsistent with the regulations.

Paragraph (d) of the proposed revised § 61.9 has been added as a clarification of existing BIA policy. In reviewing or preparing a tribal membership roll to be used as the basis for the distribution of judgment funds, the Secretary has the trust responsibility to insure that the roll is accurate and correct. If the Director or Superintendent acting on behalf of the Secretary, determines that an individual clearly does not meet the requirement for enrollment, the individual's name may be removed from the roll of persons eligible to share in the distribution of judgment funds. However, unless specified by law or in the tribal governing document, the decision of the Director or Superintendent would only affect the individual's eligibility to share in the judgment funds. Some governing documents provide for a right of an individual rejected for membership by the tribe to appeal to the Secretary and in that case the tribe would be bound by the decision of the Secretary. However, if there is no such provision in the governing document, the tribe could still consider the individual as a member of community purposes. The reverse could also be true, that is, an individual who was denied membership by the tribe could be enrolled by the Director or the Superintendent for the purposes of sharing in the judgment funds. As a matter of further clarification the limitation of applicability of the decision by the Director or Superintendent has also been added in paragraph (b)(3) under proposed revised § 61.10 *Action by the Director or Superintendent as well as the decision of the Assistant Secretary on appeals in proposed revised § 61.12 Decision of the Assistant Secretary on appeals.*

Section 61.10 Action by the Director or Superintendent.

The proposed revised § 61.10 is an expansion of the current § 61.8 *Action by the Director*. Procedures have been added for the Director or Superintendent to follow when there has been review by tribal authorities and the decision of the Tribal Committee has not been accepted. The Director or Superintendent is required to notify the Tribal Committee of the action. The existing right of the Tribal Committee to file an appeal from the decision of the Director or Superintendent has been stated as a matter of clarification. Such appeals are to be filed under Part 62 of this subchapter.

Additional procedures for the Director or Superintendent to follow when a notice of adverse action sent by certified mail, to be received by the addressee only, return receipt requested, has been returned as "Unclaimed" have been included in paragraph (c)(2) of proposed revised § 61.10. During the promulgation of other regulations, the point was raised that it was possible the addressee would not be at home when the Postal Service attempted to deliver the letter and for whatever reasons, not be able to pick up the certified mail or arrange for another delivery. Since it is not the intent of the BIA to deprive any rejected applicant of the knowledge of that fact and the right to appeal the rejection, the provision for remailing certified letters returned as "Unclaimed" was included and has been included in enrollment regulations subsequently promulgated.

Another provision which has been included in other enrollment regulations and is being added to this Part 61 as paragraph (d) of proposed revised § 61.10 is a statement as to when a notice of adverse action is considered to have been made and the computation of the appeal period shall begin. Questions have arisen particularly in instances where the rejection notice has been returned. The proposed revision is intended to clarify this matter.

In paragraph (f) the proposed revised § 61.10, a limitation has been placed on the Director's or Superintendent's authority to waive technical deficiencies in applications or other submissions to avoid hardship or gross injustice. Failure to file by the deadline does not constitute a technical deficiency which the Director or Superintendent may waive. It is not the BIA's intent to deprive otherwise eligible applicants from sharing in judgment funds. However, where reasonable efforts have been made to reach those potentially eligible beneficiaries and to provide them legal and actual notice of their

burden to act timely, the orderly conduct of the public business requires that those who for any reason do not bring themselves within the requirements of the statutory authority and regulations must suffer the consequences. Whatever equities there may be in favor of waiving the deadline for late filed applicants, to allow them to be enrolled would work a corresponding inequity against those otherwise eligible beneficiaries who did not file applications because they knew it was too late.

Section 61.11 Appeals.

The proposed revised § 61.11 corresponds to the current § 61.9. The inclusion of the provision that a copy of the appeal procedures be furnished with each notice of adverse action is merely a statement of procedures already being followed by the BIA. The requirement that the name of each appellant be specified in the appeal is being included for administrative expediency. It is not intended to be an additional burden on the individual. When individuals appeal on behalf of "themselves and their family," it is not always possible for the BIA to determine who each and everyone of the appellants may be or is intended to be. Presently the BIA staff has been writing back to the individuals and requesting that they furnish the names. Putting individuals on notice that they need to furnish the names of all the appellants when they file their appeals should expedite the process.

Section 61.12 Decision of the Assistant Secretary on appeals.

The proposed revised § 61.12 corresponds with the current § 61.10 *Decisions of the Secretary on appeals*. The authority to act on behalf of the Secretary on enrollment appeals under Part 62 of this subchapter has been delegated to the Assistant Secretary. The decisions of the Assistant Secretary on enrollment appeals constitute final agency actions. Consequently, as a matter of clarification Assistant Secretary has been substituted in the proposed revised regulations. The limitation as to the applicability of the Assistant Secretary's decision was discussed under § 61.9, above.

Section 61.13 Preparation, certification and approval of the roll.

Sections 61.11 *Preparation of roll* and 61.12 *Certification and approval of roll* of the current regulations have been combined and with only minimal administrative changes constitute the proposed revised § 61.13.

Section 61.14 Special instructions.

The proposed revised § 61.14 corresponds to the current § 61.13. Only changes of an administrative nature have been made.

Paperwork Reduction Act

The Office of Management and Budget has informed the Department of the Interior that the information collection requirements contained in § 61.4 need not be reviewed by them under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Executive Order 12291

The Department of the Interior has determined that this is not a major rule under E.O. 12291 because only a limited number of individuals will be affected and those individuals who are determined eligible will be participating in a per capita distribution made by the Secretary of a relatively small amount of funds.

Compliance With Other Laws

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because of the limited applicability as stated above.

The Department of the Interior has determined that this rule does not significantly affect the quality of the human environment and, therefore, does not require the preparation of an Environmental Impact Statement under section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C).

List of Subjects in 25 CFR Part 61

Indians—claims, and Indians—enrollment.

Accordingly, it is proposed that Part 61 of Subchapter F of Chapter I of Title 25 of the Code of Federal Regulations be revised to read as follows:

PART 61—PREPARATION OF ROLLS OF INDIANS

- Sec.
- 61.1 Definitions.
 - 61.2 Purpose.
 - 61.3 Information collection.
 - 61.4 Qualifications for enrollment and the deadline for filing applications.
 - 61.5 Notices.
 - 61.6 Application forms.
 - 61.7 Verification forms.
 - 61.8 Burden of proof.
 - 61.9 Review of applications by tribal authorities.

- Sec.
 61.10 Action by the Director or Superintendent.
 61.11 Appeals.
 61.12 Decision of the Assistant Secretary on appeals.
 61.13 Preparation, certification and approval of the roll.
 61.14 Special instructions.
 Authority: 5 U.S.C. 301; 25 U.S.C. 2 and 9; and Pub. L. 93-134, 87 Stat. 466, as amended.

§ 61.1 Definitions.

As used in these regulations:

"Act" means any act of Congress authorizing or directing the Secretary to prepare a roll of a specific tribe, band, or group of Indians.

"Adopted person" means a person whose natural parents' parental rights have been given to others to exercise by court order.

"Approved roll" means a roll of Indians approved by the Secretary.

"Assistant Secretary" means the Assistant Secretary of the Interior for Indian Affairs or an authorized representative acting under delegated authority.

"Basic roll" means the specified allotment, annuity, census or other roll designated in the Act or Plan as the basis upon which a new roll is to be compiled.

"Commissioner" means the Commissioner of Indian Affairs or an authorized representative acting under delegated authority.

"Descendant(s)" means those persons who are the issue of the ancestor through whom enrollment rights are claimed; namely, the children, grandchildren, etc. It does not include collateral relatives such as brothers, sisters, nieces, nephews, cousins, etc. or adopted children, grandchildren, etc.

"Director" means the Area Director of the Bureau of Indian Affairs areas office which has administrative jurisdiction over the local field responsible for administering the affairs of the tribe, band, or group for which a roll is being prepared or an authorized representative acting under delegated authority.

"Enrollee(s)" means persons who have met specific requirements for enrollment and whose names appear on a particular roll of Indians.

"Lineal ancestor" means an ancestor, living or deceased, who is related to a person by direct ascent; namely, the parent, grandparent, etc. It does not include collateral relatives such as brothers, sisters, aunts, uncles, etc., or adopted parents, grandparents, etc.

"Living" means born on or before and alive on the date specified.

"Plan" means any effective plan prepared under the provisions of the Act

of October 19, 1973, Pub. L. 93-134, 87 Stat. 466, as amended, which authorizes and directs the Secretary to prepare a roll of a specific tribe, band, or group of Indians.

"Secretary" means the Secretary of Interior or an authorized representative acting under delegated authority.

"Sponsor" means any person who files an application for enrollment or appeal on behalf of another person.

"Staff Officer" means the Enrollment Officer or other person authorized to prepare the roll.

"Superintendent" means the official or other designated representative of the Bureau of Indian Affairs in charge of the field office which has immediate administrative responsibility for the affairs of the tribe, band, or group for which a roll is being prepared.

"Tribal Committee" means the body of a federal recognized tribal entity vested with final authority to act on enrollment matters.

"Tribal Governing Document" means the written organizational statement governing the tribe, band, or group of Indians and/or any valid document, enrollment ordinance, or resolution enacted thereunder.

§ 61.2 Purpose.

The regulations in this Part 61 are to govern the compilation of rolls of Indians by the Secretary of the Interior pursuant to statutory authority. The regulations are not to apply in the compilation of tribal membership rolls where the responsibility for the preparation and maintenance of such rolls rests with the tribes.

§ 61.3 Information collection.

The Office of Management and Budget has informed the Department of the Interior that the information collection requirements contained in § 61.4 need not be reviewed by them under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

§ 61.4 Qualification for enrollment and the deadline for filing applications.

(a) The qualifications which must be met to establish eligibility for enrollment and the deadline for filing applications will be included in this Part 61 by appropriate amendments to this section; *except that*, when an Act or Plan states the qualifications for enrollment and the deadline for filing applications and specifies that the regulations contained in this Part 61 will apply, amendment to this section will not be required in order for the procedures contained in this Part 61 to govern the preparation of the roll; *provided further*, the provisions contained in this Part 61 that were in

effect when the regulations were amended to include paragraphs (r), (s), (w), (x), (y), and (z) shall apply in the preparation of the rolls under paragraphs (r), (s), (w), (x), (y), and (z) of this section.

(b) *Pembina Band of Chippewa Indians.* (1) Pursuant to section 7(a) of the Act of December 31, 1982, Pub. L. 97-403, 96 Stat. 2022, a roll is to be prepared and used as the basis for the distribution of an apportioned share of judgment funds awarded the Pembina Chippewa Indians in dockets numbered 113, 191, 221 and 246 of the Court of Claims of all persons who:

(i) Are of at least ¼ degree Pembina Chippewa blood;

(ii) Are citizens of the United States;

(iii) Were living on December 31, 1982;

(iv) Are not members of the Red Lake Band of Chippewa Indians, the Turtle Mountain Band of Chippewa Indians, the Chippewa Cree Tribe of the Rocky Boy's Reservation, or Minnesota Chippewa Tribe, or the Little Shell Band of Chippewa Indians of Montana; and

(v) Are enrolled or are lineal descendants of persons enrolled:

(A) As Pembina descendants under the provisions of the Act of July 29, 1971 (85 Stat. 158), for the disposition of the 1863 Pembina Award, or

(B) On the McCumber roll of the Turtle Mountain Indians of 1892, or

(C) On the Davis roll of the Turtle Mountain Indians of 1904; or

(D) As Chippewa on the tentative roll of the Rocky Boy Indians of May 30, 1917, or the McLaughlin census report of the Rocky Boy Indians of July 7, 1917, or the Roe Cloud Roll of Landless Indians of Montana; or

(vi) Are able to establish Pembina ancestry on the basis of any other rolls or records acceptable to the Secretary.

(2) Applications for enrollment must be filed with the Superintendent, Turtle Mountain Agency, Bureau of Indian Affairs, Belcourt, North Dakota 58316, and must be received no later than October 15, 1985. Applications received after that date will be denied for failure to file in time regardless of whether the applicant otherwise meets the requirements for enrollment.

(3) Each applicant for enrollment with any of the tribes specified in paragraph (a)(1)(iv) of this section, except the Red Lake Band of Chippewa Indians, which may be rejected by the tribes shall be reviewed by the Superintendent to determine whether the applicant meets the qualifications for enrollment as a descendant of the Pembina Band of Chippewas under paragraph (a)(1) of this section. Each rejection notice shall

contain a statement to the effect that the application is being given such review.

(c) *Cherokee Band of Shawnee Indians.* (1) Pursuant to section 5 of the Act of December 20, 1882, Pub. L. 97-372, 96 Stat. 1815, a roll is to be prepared and used as the basis for distribution of an apportioned share of judgment funds awarded the Shawnee Tribe in dockets 64, 335, and 338 by the Indian Claims Commission and in docket 64-A by the U.S. Court of Claims of all persons of Cherokee Shawnee ancestry:

(i) Who were living on December 20, 1982;

(ii) Who are lineal descendants of the Shawnee Nation as it existed in 1854, based on the roll of the Cherokee Shawnee compiled pursuant to the Act of March 2, 1889 (25 Stat. 944), or any other records acceptable to the Secretary including eligibility to share in the distribution of judgment funds awarded the Absentee Shawnee Tribe of Oklahoma on behalf of the Shawnee Nation in Indian Claims Commission docket 334-B as a Cherokee Shawnee descendant; and

(iii) Who are not members of the Absentee Shawnee Tribe of Oklahoma or the Eastern Shawnee Tribe of Oklahoma.

(2) Applications for enrollment must be filed with the Director, Muskogee Area Office, Bureau of Indian Affairs, Federal Building, Muskogee, Oklahoma 74401, and must be received by the Director by close of business on (180 days from the date of publication). Applications received after that date will be rejected for inclusion on the roll being prepared for failure to file on time regardless of whether the applicant otherwise meets the requirements for enrollment.

(d) *Miami Indians of Indiana.* (1) Pursuant to section 3 of the Act of December 21, 1882, Pub. L. 97-376, 96 Stat. 1828, a roll is to be prepared and used as the basis for the distribution of an apportioned share of judgment funds awarded the Miami Tribe of Oklahoma and the Miami Indians of Indiana in dockets 124-B and 254 by the U.S. Court of Claims of all persons of Miami Indian ancestry:

(i) Who were living on December 21, 1982;

(ii) Whose name or the name of a lineal ancestor appears on:

(A) The roll of Miami Indians of Oklahoma and Indiana prepared pursuant to the Act of June 2, 1972 (86 Stat. 199)

(B) The roll of Miami Indians of Indiana of June 12, 1895, or

(C) The roll of "Miami Indians of Indiana, now living in Kansas, Quapaw Agency, I.T., and Oklahoma Territory,"

prepared and completed pursuant to the Act of March 2, 1895 (28 Stat. 903), or

(D) The roll of the Eel River Miami Tribe of Indians of May 27, 1889,

prepared and completed pursuant to the Act of June 29, 1888 (25 Stat. 223), or

(E) The roll of the Western Miami Tribe of Indians of June 2, 1891 (26 Stat. 1001); and

(iii) Who are not members of the Miami Tribe of Oklahoma.

(2) Applications for enrollment must be filed with the Director, Muskogee Area Office, Bureau of Indian Affairs, Federal Building, Muskogee, Oklahoma 74401, and must be received by the Director by close of business on (180 days from date of publication). Applications received after that date will be rejected for inclusion on the roll being prepared for failure to file on time regardless of whether the applicant otherwise meets the requirements for enrollment.

(e)-(q) [Reserved].

(r) *Mdewakanton and Wahpakoota Tribe of Sioux Indians.* (1) All lineal descendants of the Mdewakanton and Wahpakoota Tribe of Sioux Indians who were born on or prior to and were living on October 25, 1972, whose names or the name of a lineal ancestor appears on any available records and rolls acceptable to the Secretary of the Interior and who are not members of the Flandreau Santee Sioux Tribe of South Dakota, the Santee Sioux Tribe of Nebraska, the Lower Sioux Indian Community at Morton, Minn., the Prairie Island Indian Community at Welch, Minn., or the Shakopee Mdewakanton Sioux Community of Minnesota shall be entitled to be enrolled under title I, section 101(b) of the act of October 25, 1972 (86 Stat. 1168), to share in the distribution of funds derived from a judgment awarded the Mississippi Sioux Indians.

(2) Applications for enrollment must have been filed with the Director, Aberdeen Area Office, Bureau of Indian Affairs, 820 South Main Street, Aberdeen, S. Dak. 57401, and must have been received no later than November 1, 1973. Applications received after that date will be denied for failure to file in time regardless of whether the applicant otherwise meets the requirements for enrollment.

(3) Each application for enrollment with any of the tribes named in paragraph (r)(1) of this section which may be rejected by the tribes shall be reviewed by the Director to determine whether the applicant meets the requirements for enrollment as a descendant of the Mdewakanton and Wahpakoota Tribe of Sioux Indians under paragraph (r)(1) of this section.

Each rejection notice issued by the tribes shall contain a statement to the effect that the application is being given such review.

(s) *Sisseton and Wahpeton*

Mississippi Sioux Tribe. (1) All lineal descendants of the Sisseton and Wahpeton Mississippi Sioux Tribe who were born on or prior to and were living on October 25, 1972, whose names or the name of a lineal ancestor appears on any available records and rolls acceptable to the Secretary of the Interior and who are not members of the Devils Lake Sioux Tribe of North Dakota, the Sisseton and the Wahpeton Sioux Tribe of South Dakota, or the Assiniboine and Sioux Tribes of the Fort Peck Reservation shall be entitled to be enrolled under title II, section 201(b) of the act of October 25, 1972 (86 Stat. 1168), to share in the distribution of certain funds derived from a judgment awarded the Mississippi Sioux Indians.

(2) Applications for enrollment must have been filed with the Director, Aberdeen Area Office, Bureau of Indian Affairs, 820 South Main Street, Aberdeen, S. Dak. 57401, and must have been received no later than November 1, 1973. Applications received after that date will be denied for failure to file in time regardless of whether the applicant otherwise meets the requirements for enrollment.

(3) Each application for enrollment with any of the tribes named in paragraph (s)(1) of this section which may be rejected by the tribes shall be reviewed by the Director to determine whether the applicant meets the requirements for enrollment as a descendant of the Sisseton and Wahpeton Mississippi Sioux Tribe under paragraph (s)(1) of this section. Each rejection notice issued by the tribes shall contain a statement to the effect that the application is being given such review.

(t)-(v) [Reserved]

(w) *Lower Skagit Tribe of Indians.* (1) All persons of Lower Skagit ancestry born on or prior to and living on February 18, 1975, who are lineal descendants of a member of the tribe as it existed in 1859 based on the 1919 Roblin Roll and other records acceptable to the Assistant Secretary, shall be entitled to have their names placed on the roll, to be prepared and used as the basis to distribute the judgment funds awarded the Lower Skagit Tribe in Indian Claims Commission docket 294. Proof of Upper Skagit ancestry will not be acceptable as proof of Lower Skagit ancestry.

(2) Applications for enrollment must have been filed with the Superintendent

Western Washington Agency, Bureau of Indian Affairs, 3006 Colby Avenue, Everett, Washington 98201, and must have been received by close of business on May 31, 1977. Applications received after that date will be denied for failure to file in time regardless of whether the applicant otherwise meets the requirements for enrollment.

(3) Payment of shares will be made in accordance with Part 87 and 115 of this chapter.

(x) *Kikiallus Tribe of Indians*. (1) All persons of Kikiallus ancestry born on or prior to and living on February 18, 1975, who are lineal descendants of a member of the tribe as it existed in 1859 based on the 1919 Roblin Roll and other records acceptable to the Assistant Secretary, shall be entitled to have their names placed on the roll, to be prepared and used as the basis to distribute the judgment funds awarded the Kikiallus Tribe in Indian Claims Commission docket 263.

(2) Applications for enrollment must have been filed with the Superintendent, Western Washington Agency, Bureau of Indian Affairs, 3006 Colby Avenue, Everett, Washington 98201, and must have been received by close of business on May 31, 1977. Applications received after that date will be denied for failure to file in time regardless of whether the applicant otherwise meets the requirements for enrollment.

(3) Payment of shares will be made in accordance with Parts 87 and 115 of this chapter.

(y) *Swinomish Tribe of Indians*. (1) All persons of Swinomish ancestry born on or prior to and living on December 10, 1975, who are lineal descendants of a member of the tribe as it existed in 1859 based on the 1919 Roblin Roll and other records acceptable to the Assistant Secretary, shall be entitled to have their names placed on the roll, to be prepared and used as the basis to distribute the judgment funds awarded the Swinomish Tribe in Indian Claims Commission docket 233.

(2) Applications for enrollment must have been filed with the Superintendent, Western Washington Agency, Bureau of Indian Affairs, 3006 Colby Avenue, Everett, Washington 98201, and must have been received by close of business on May 31, 1977. Applications received after that date will be denied for failure to file in time regardless of whether the applicant otherwise meets the requirements for enrollment.

(3) Payment of shares will be made in accordance with Parts 87 and 115 of this chapter.

(z) *Samish Tribe of Indians*. (1) All persons of Samish ancestry born on or prior to and living on December 10, 1975,

who are lineal descendants of a member of the tribe as it existed in 1859 based on any records acceptable to the Secretary, shall be entitled to have their names placed on the roll to be prepared and used as the basis to distribute the judgment funds awarded the Samish Tribe in Indian Claims Commission docket 261.

(2) Applications for enrollment must have been filed with the Superintendent, Western Washington Agency, Bureau of Indian Affairs, 3006 Colby Avenue, Everett, Washington 98201, and must have been received by close of business on May 31, 1977. Applications received after that date will be denied for failure to file in time regardless of whether the applicant otherwise meets the requirements for enrollment.

(3) Payment of shares will be made in accordance with Parts 87 and 115 of this chapter.

§ 61.5 Notices.

(a) The Director or Superintendent shall give notice to all Directors of the Bureau of Indian Affairs and all Superintendents within the jurisdiction of the Director, of the preparation of the roll for public display in Bureau field offices. Reasonable efforts shall be made to place notices for public display in community buildings, tribal buildings, and Indian centers.

(b) The Director or Superintendent shall, on the basis of available residence data, publish, and republish when advisable, notices of the preparation of the roll in appropriate locales utilizing media suitable to the circumstances.

(c) The Director or Superintendent shall, when applicable, mail notices of the preparation of the roll to previous enrollees or tribal members at the last address of record or in the case of tribal members, the last address available.

(d) Notice shall advise of the preparation of the roll and the relevant procedures to be followed including the requirements for enrollment and the deadline for filing applications in order to be eligible for enrollment. The notices shall also state how and where application forms may be obtained as well as the name, address, and telephone number of a person who may be contacted for further information.

§ 61.6 Application forms.

(a) Application forms to be filed by or for applicants for enrollment will be furnished by the Director, Superintendent, or other designated persons, upon written or oral request. Each person furnishing application forms shall keep a record of the names of individuals to whom forms are given, as well as the control numbers of the

forms and the date furnished.

Instructions for completing and filing applications shall be furnished with each form. The form shall indicate prominently the deadline for filing applications.

(b) Among other information, each application form shall contain:

(1) Certification as to whether application is for a natural child or an adopted child of the parent through whom eligibility is claimed.

(2) If the application is filed by a sponsor, the name and address of sponsor and relationship to applicant.

(3) A control number for the purpose of keeping a record of forms furnished interested individuals.

(4) Certification that the information given on the application is true to the best of the knowledge and belief of the person filing the application. Criminal penalties are provided by statute for knowingly filing false information in such applications (18 U.S.C. 1001).

(c) Application forms may be filed by sponsors on behalf of other persons.

(d) Every applicant or sponsor shall furnish the applicant's mailing address on the application form. Thereafter, the applicant or sponsor shall promptly notify the Director or Superintendent of any change in address, giving appropriate identification of the application, otherwise the mailing address as stated on the form shall be acceptable as the address of record for all purposes under the regulations in this Part 61.

§ 61.7 Verification forms.

If the Director or Superintendent is preparing a roll of Indians by adding names of eligible persons to and deleting names of ineligible persons from a previously approved roll, and individuals whose names appear on the previously approved roll are not required to file applications for enrollment, a verification form, to be completed and returned, shall be mailed to each previous enrollee using the last address of record. The verification form will be used to ascertain the previous enrollee's current name and address and that the enrollee is living, or if deceased, the enrollee's date of death. Name and/or address changes will only be made if the verification form is signed by an adult enrollee, if living, or the parent or guardian having legal custody of a minor enrollee, or an authorized sponsor. The verification form may also be used by any sponsor to notify the Director or Superintendent of the date of death of a previous enrollee.

§ 61.8 Burden of proof.

The burden of proof rests upon the applicant or tribal member to establish eligibility for enrollment. Documentary evidence such as birth certificates, death certificates, baptismal records, copies of probate findings, or affidavits, may be used to support claim of eligibility for enrollment. Records of the Bureau of Indian Affairs may be used to establish eligibility.

§ 61.9 Review of applications by tribal authorities.

(a) If tribal review is applicable, the Director or Superintendent shall submit all applications to the Tribal Committee for review and recommendations or determinations; except that, in the cases of adopted persons where the Bureau of Indian Affairs has assured confidentiality in order to obtain the information necessary to determine the eligibility for enrollment of the individual or has the statutory obligation to maintain the confidentiality of the information, the confidential information may not be released to the Tribal Committee, but the Director or Superintendent shall certify as to the eligibility for enrollment of the individual to the Tribal Committee.

(b) The Tribal Committee shall review all applications and make its recommendations or determinations in writing stating the reasons for acceptance or rejection for enrollment.

(c) The Tribal Committee shall return the applications to the Director or Superintendent with its recommendations or determinations and any additional evidence used in determining eligibility for enrollment within 30 days of receipt of the applications by the Tribal Committee. The Director or Superintendent may grant the Tribal Committee additional time, upon request, for its review.

(d) Acceptance of an individual for enrollment by the Tribal Committee does not insure the individual's eligibility to share in the distribution of the judgment funds.

§ 61.10 Action by the Director or Superintendent.

(a) The Director or Superintendent shall consider each application, all documentation, and when applicable, tribal recommendations or determinations.

(b) The Director or Superintendent, when tribal recommendations or determinations are applicable, shall accept the recommendations or determinations of the Tribal Committee unless clearly erroneous.

(1) If the Director or Superintendent does not accept the tribal recommendation or determination, the Tribal Committee shall be notified in writing, by certified mail, return receipt requested, or by personal delivery, of the action and the reasons therefor.

(2) The Tribal Committee may appeal the decision of the Director or Superintendent not to accept the tribal recommendation or determination. Such appeal must be in writing and must be filed pursuant to Part 62 of this chapter.

(3) Unless otherwise specified by law or in a tribal governing document, the determination of the Director or Superintendent shall only affect the individual's eligibility to share in the distribution of judgment funds.

(c) The Director or Superintendent, upon determining an individual's eligibility, shall notify the individual, parent or guardian having legal custody of a minor, or sponsor, as applicable, in writing of the decision. If an individual files applications on behalf of more than one person, one notice of eligibility or adverse action may be addressed to the person who filed the applications. However, the notice must list the name of each person involved. Where an individual is represented by a sponsor, notification of the sponsor of eligibility or adverse action shall be considered to be notification of the individual.

(1) If the Director or Superintendent determines that the individual is eligible, the name of the individual shall be placed on the roll.

(2) If the Director or Superintendent determines that the individual is not eligible, he/she shall notify the individual's parent or guardian having legal custody of a minor, or sponsor, as applicable, in writing by certified mail, to be received by the addressee only, return receipt requested, and shall explain fully the reasons for the adverse action and the right to appeal to the Secretary. If correspondence is sent out of the United States, registered mail will be used. If a certified or registered notice is returned as "Unclaimed" the Director or Superintendent shall re-mail the notice by regular mail together with an acknowledgment of receipt form to be completed by the addressee and returned to the Director or Superintendent. If the acknowledgment of receipt is not returned, computation of the appeal period shall begin on the date the notice was re-mailed. Certified or registered notices returned for any reason other than "Unclaimed" need not be re-mailed.

(d) Except as provided in paragraph (c)(2) of this section, a notice of adverse action is considered to have been made and computation of the appeal period

shall begin on the earliest of the following dates:

(1) Of delivery indicated on the return receipt;

(2) Of acknowledgment of receipt;

(3) Of personal delivery; or

(4) Of the return by the post office of an undelivered certified or registered letter.

(e) In all cases where an applicant is represented by an attorney, the attorney shall be recognized as fully controlling the application on behalf of the applicant and service on the attorney of any document relating to the application shall be considered to be service on the applicant. Where an applicant is represented by more than one attorney, service upon one of the attorneys shall be sufficient.

(f) To avoid hardship or gross injustice, the Director or Superintendent may waive technical deficiencies in applications or other submissions. Failure to file by the deadline does not constitute a technical deficiency.

§ 61.11 Appeals

Appeals from or on behalf of tribal members or applicants who have been denied enrollment must be in writing and must be filed pursuant to Part 62 of this chapter. When the appeal is on behalf of more than one person, the name of each person must be listed in the appeal. A copy of Part 62 of this chapter shall be furnished with each notice of adverse action.

§ 61.12 Decision of the Assistant Secretary on appeals.

The decision of the Assistant Secretary on an appeal shall be final and conclusive and written notice of the decision shall be given the individual, parent or guardian having legal custody of a minor, or sponsor, as applicable. The name of any person whose appeal has been sustained will be added to the roll. Unless otherwise specified by law or in a tribal governing document, the determination of the Assistant Secretary shall only affect the individual's eligibility to share in the distribution of the judgment funds.

§ 61.13 Preparation, certification and approval of the roll.

(a) The staff officer shall prepare a minimum of five copies of the roll of those persons determined to be eligible for enrollment. The roll shall contain for each person a roll number, name, address, sex, date of birth, date of death, when applicable, and when required by law, degree of Indian blood, and, in the remarks column, when applicable, the basic roll number, date of the basic roll, name and relationship of ancestor on

the basic roll through whom eligibility was established.

(b) A certificate shall be attached to the roll by the staff officer or Superintendent certifying that to the best of his/her knowledge and belief the roll contains only the names of those persons who were determined to meet the requirements for enrollment.

(c) The Director shall approve the roll.

§ 61.14 Special instructions.

To facilitate the work of the Director or Superintendent, the Assistant Secretary may issue special instructions not inconsistent with the regulations in this Part 61.

Theodore C. Krenzke,

Acting Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 85-14397 Filed 6-14-85; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 09-85-13]

Special Local Regulations; 1985 Cleveland National Air Show

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering a proposal to establish Special Local Regulations for the Annual Cleveland National Air Show which is to be conducted over the eastern portion of Cleveland Harbor from the 31st of August through the 3rd of September, 1985. The regulations are needed to provide for the safety of life on navigable waters during the event.

DATES: Comments must be received on or before August 1, 1985.

ADDRESSES: Comments should be mailed to Commander (inc), Ninth Coast Guard District, 1240 East 9th Street, Cleveland, OH 44199. The comments will be available for inspection and copying at the Ice Navigation Center, Room 2007D, 1240 East 9th Street, Cleveland, OH. Normal office hours are between 7:30 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered.

FOR FURTHER INFORMATION CONTACT: MSTC Cary H. Lindsay, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, [216] 522-4420.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking

by submitting written views, data or arguments. Persons submitting comments should include their names and addresses, identify this notice [CGD 09-85-13] and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed. The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this regulation are MSTC Cary H. Lindsay, project officer, Office of Search and Rescue and LCDR A. R. Butler, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The 1985 Cleveland National Air Show will be conducted over the eastern portion of Cleveland Harbor from 31 August through 3 September, 1985. It is sponsored by the Cleveland National Air Show and is well known to boaters and residents of this area. This event will have low flying aircraft demonstrations, high performance aircraft aerobatics, parachutists, and other events which could pose hazards to navigation in the area. In order to provide for the safety of life and property, the Coast Guard will restrict vessel movement prior to and during this event within this section of the Cleveland Harbor. A Coast Guard patrol vessel will be located at strategic locations in the harbor along the regulated area to stop vessel traffic.

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures [44 FR 11034; February 26, 1979]. The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This event will draw a large number of spectator craft into the area for the duration of the event. This should have a favorable impact on commercial facilities providing services to the spectators. Any impact on commercial traffic in the area will be negligible.

Since the impact of this regulation is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

PART 100—[AMENDED]

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46(c)(5) and 33 CFR 100.35.

2. Part 100 is amended to add a temporary § 100.35-0913 to read as follows:

§ 100.35-0913 1985 Cleveland National Air Show.

The following area will be closed to vessel navigation or anchorage from 8:00 A.M. (local time) until 6:00 P.M. (local time) from 31 August through 3 September, 1985.

(a) *Restricted Area.* That portion of Lake Erie and Cleveland Harbor enclosed by a line running from the northwest corner of Dock No. 34 northwest to 41 degrees 31 minutes North 81 degrees 42 minutes 16 seconds West; then northeast to a point at 41 degrees 32 minutes 15 seconds North 81 degrees 11 minutes 15 seconds West, then southeast to a point at Light "2" in position at 41 degrees 31 minutes 45 seconds North 81 degrees 39 minutes 46 seconds West.

(b) *Special Local Regulations.* (1) Vessels desiring to transit the restricted area may do so only with the prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants, or vessels of the patrol in the performance of their assigned duties.

(2) No vessel shall anchor or drift in the area restricted to navigation.

(3) A succession of sharp, short, signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signalled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(4) All persons in charge of, or operating vessels in the area covered by the above Special Local Regulations are required to promptly obey the directions of the Patrol Commander and the men acting under his instructions in connection with the enforcement of these Special Local Regulations.

(5) For any violation of this regulation, the following maximum penalties are authorized by law:

(i) \$500 for any person in charge of the navigation of a vessel.

(ii) \$500 for the owner of a vessel actually on board.

(iii) \$250 for any other person.

(iv) Suspension or revocation of a license for a licensed officer.

Dated: June 10, 1985.

L.W. Garrett,

Chief of Staff (Acting), Captain, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 14458 Filed 6-14-85; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 100

[CGD 09-85-14]

Special Local Regulations; Spirit of America Offshore Grand Prix, Lake Michigan

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The Coast Guard is considering a proposal to establish Special Local Regulations for the Spirit of America Offshore Grand Prix which is to be conducted on Lake Michigan off of Grand Haven, MI, on the 10th of August, 1985. The regulations are needed to provide for the safety of life on navigable waters during the event.

DATES: Comments must be received on or before August 1, 1985.

ADDRESSES: Comments should be mailed to Commander (Inc), Ninth Coast Guard District, 1240 East 9th Street, Cleveland, OH 44199. The comments will be available for inspection and copying at the Ice Navigation Center, Room 2007D, 1240 East 9th Street, Cleveland, OH. Normal office hours are between 7:30 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered.

FOR FURTHER INFORMATION CONTACT: MSTC Cary H. Lindsay, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522-4420.

SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in this proposed rulemaking by submitting written views, data or

arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 09-85-14) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed. The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held in written requests for a hearing are received and it is determined that the opportunity to make oral presentation will aid the rulemaking process.

Drafting Information

The drafters of this regulation are MSTC Cary H. Lindsay, project officer, Office of Search and Rescue and LCDR A.R. Butler, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The Spirit of America Offshore Grand Prix will be conducted on Lake Michigan off of Grand Haven, MI, on 10 August, 1985. It is sponsored by the Grand Isle Marina and is well known to boaters and residents of this area. This event will have an estimated 50 plus power boats with an expected 7,000 spectator craft which could pose hazards to navigation in the area. In order to provide for the safety of life and property, the Coast Guard will restrict vessel movement prior to and during this event within this section of the Cleveland Harbor. A Coast Guard patrol vessel will be located at strategic locations around the regulated area to stop vessel traffic.

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This event will draw a large number of spectator craft into the area for the duration of the event. This should have a favorable impact on commercial facilities providing services to the spectators. Any impact on commercial traffic in the area will be negligible.

Since the impact of this regulation is expected to be minimal, the Coast Guard certifies that it will not have a

significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

PART 100—[AMENDED]

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46(c)(5) and 33 CFR 100.35.

2. Part 100 is amended to add a temporary § 100.35-0914 to read as follows:

§ 100.35-0914 Spirit of America Offshore Grand Prix, Lake Michigan.

The following area will be closed to vessel navigation or anchorage except for spectator areas to be designated by the Coast Guard Patrol Commander, from 10:00 A.M. (local time) until 3:00 P.M. (local time) on 10 August, 1985.

(a) *Restricted Area.* That portion of Lake Michigan enclosed by the following points: 43 degrees 04.4 minutes North, 086 degrees 16.9 minutes West; 43 degrees 2.5 minutes North, 086 degrees 19.0 minutes West; 43 degrees 1.3 minutes North, 086 degrees 16.1 minutes West; 43 degrees 1.3 minutes North, 086 degrees 14.4 minutes West; 43 degrees 2.6 minutes North, 086 degrees 13.5 minutes West; 42 degrees 47.1 minutes North, 086 degrees 13.1 minutes West; 42 degrees 56.7 minutes North, 86 degrees 13.4 minutes West.

(b) *Special Local Regulations.*

(1) Vessels desiring to transit the restricted area may do so only with the prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no make wake speed and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants, or vessels of the patrol in the performance of their assigned duties.

(2) No vessel shall anchor or drift in the area restricted to navigation.

(3) A succession of sharp, short, signals by whistle or horn from vessels patrolling the area under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signalled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(4) All persons in charge of, or operating vessels in the area covered by the above Special Local Regulations are

required to promptly obey the directions of the Patrol Commander and the men acting under his instructions in connection with the enforcement of these Special Local Regulations.

(5) For any violation of this regulation, the following maximum penalties are authorized by law:

- (i) \$500 for any person in charge of the navigation of a vessel.
- (ii) \$500 for the owner of a vessel actually on board.
- (iii) \$250 for any other person.
- (iv) Suspension or revocation of a license for a licensed officer.

Dated: June 10, 1985.

L.W. Garrett,
Chief of Staff (Acting), Captain, U.S. Coast
Guard, Commander, Ninth Coast Guard
District.

[FR Doc. 85-14459 Filed 6-14-85; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-6-FRL-2851-9]

Alternative Emission Reduction Plan for Conoco Inc.; Chemical Plant, Westlake, LA

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: This notice proposes to revise the Louisiana State Implementation Plan (SIP) pursuant to section 110 of the Clean Air Act by approving the Conoco Inc. Chemical Plant, Westlake, Louisiana alternative emission reduction plan ("bubble"). The bubble plan consists of two parts. The first part involves two oil-water separators operated by Conoco which were required to install controls by December 31, 1982. The company proposes to use emission reduction credits (ERC's) claimed as a result of installation of an incinerator at its vinyl chloride monomer (VCM) plant, in order to delay compliance of the referenced oil-water separators by one year. The second part of the bubble involves Conoco's use of ERC's from the VCM Plant referenced above, in lieu of controlling emissions from two Alcohol Plant batch oxidation reactors. The Conoco Inc. Chemical Plant is located in Calcasieu Parish, which is designated as a rural ozone nonattainment area. The purpose of this notice is to discuss EPA's evaluation of the Conoco Chemical Plant bubble plan and to solicit public comments on this proposed SIP approval.

DATE: Interested persons are invited to submit comments on this proposed action no later than July 17, 1985.

ADDRESSES: Written comments on this proposed action should be addressed to John Hepola of the EPA Region 6 office (address below). Copies of the State's submittals and EPA's technical review may be examined during normal business hours at the following locations:

Environmental Protection Agency,
Region 6, Air Branch, 1201 Elm Street,
Dallas, Texas 75270
Louisiana Department of Environmental
Quality, Office of Air Quality, 625
North Fourth St., Baton Rouge,
Louisiana 70804

FOR FURTHER INFORMATION CONTACT:

Timothy A. Glasco, State
Implementation Plan Section, Air
Branch, EPA Region 6, 1201 Elm Street,
Dallas, Texas 75270, (214) 767-1518.

SUPPLEMENTARY INFORMATION: On April 7, 1982 (47 FR 15076), EPA issued a proposed Policy Statement entitled "Emissions Trading Policy Statement: General Principles for Creation, Banking, and Use of Emission Reduction Credits." The Statement described emissions trading, outlined EPA's criteria for review of emissions trades, and provided guidelines to aid states and industry in meeting these requirements. The April 7, 1982 notice states that, until EPA takes final action on its Policy Statement, it will evaluate State actions under the principles set forth in the proposed Policy Statement and the accompanying Technical Issues Document.

In accordance with the provisions contained in the proposed Emissions Trading Policy Statement, the State of Louisiana submitted a revision to its SIP to EPA on November 22, 1983. This SIP revision authorizes use of a bubble to bring the two oil-water separators and two Alcohol Plant batch oxidation reactors into compliance with the applicable State regulations.

Specifically, the first part of the bubble trade consists of an increase in allowable VOC emissions from two oil-water separators for the period of February 8, 1983 through December 31, 1983, from 3.66 to 433.5 tons per year (429.8 tons per year increase), and the permanent use of 434.0 tons per year VOC from ERC's accrued from incineration of the oxychlorination vent at Conoco's VCM Plant. Conoco took the two oil-water separators out of service and replaced them with one covered separator by December 31, 1983. Although the separator facility is now in compliance with the applicable State

regulations, the credits do not return to Conoco for any future use.

The second part of the bubble trade consists of an increase in allowable VOC emissions for the two Alcohol Plant batch oxidation reactors to 676.8 tons per year, and the use of ERC's resulting from incineration of the VCM Plant oxychlorination vent stream. Under the terms of the bubble, Conoco will use 676.8 tons per year of ERCs plus a 10% surcharge of 67.6 tons per year for a net air quality benefit, or 774.4 tons per year VOC total ERCs used.

Background

In 1979 Louisiana revised its SIP in part by amending Louisiana Environmental Control Commission (LECC) Rule 22.6, pertaining to organic compound water separators, and Rule 22.8, pertaining to waste gas disposal. Conoco operates a holding pond scraper section and an ethylene/alcohol API separator at its Chemical Plant which require control under LECC Rule 22.6. The additional controls required consist of totally enclosing the separator contents, installation of a floating roof or vapor disposal system, or an approved equivalent means of control. Conoco proposed to trade the emissions reductions from incineration of halogenated VOC's in the oxychlorination vent at its VCM plant in order to delay compliance of the affected sources for a period of one year (until December 31, 1983).

Conoco also operates two batch oxidation reactors at its Alcohol Plant which require control under LECC Rule 22.8 (waste gas disposal). The required controls consist of incineration or an approved equivalent means of control. Conoco proposed to trade the oxychlorination vent emissions reductions in lieu of controlling the two batch oxidation reactors.

EPA reviewed the State's bubble submittal using the criteria set forth in the interim Emissions Trading Policy Statement, and has prepared an evaluation report¹ which analyzes in detail the acceptability of the Conoco bubble proposal. This evaluation report is available for inspection by interested parties during normal business hours at the EPA Region 6 and Louisiana Department of Environmental Quality offices listed above.

¹ "EPA Review of the Conoco Inc. Chemical Plant Alternative Emission Reduction Proposal, Westlake, Calcasieu Parish, Louisiana," EPA Region 6, June 1984.

Review of the Conoco Bubble

The April 7, 1982 Emissions Trading Policy Statement specifies that emissions reductions used in bubble trades must be surplus, enforceable, permanent, and quantifiable. The Conoco bubble proposal meets these requirements as discussed below.

For emission reductions to be surplus, they must extend below the appropriate baseline level of emissions for the unit in question. The baseline depends on the assumptions made for the unit when EPA approved the area's SIP.

EPA classified Calcasieu Parish as a rural ozone nonattainment area in 1980 (45 FR 9903). Consistent with EPA's general policy statement on the requirements for Part D SIPs, made April 4, 1979 (44 FR 20376), EPA has not required such nonattainment areas to submit detailed emissions inventories and demonstrations of attainment. Instead, the Agency has required them to submit only regulations requiring Reasonably Available Control Technology (RACT) for sources for which EPA has issued a Control Techniques Guideline (CTG). This was based on EPA's belief that those provisions, in conjunction with the necessary control measures for upwind urban areas, would be adequate to bring about timely attainment and maintenance.

EPA approved the regulations that Louisiana submitted for Calcasieu Parish as adequate to meet these minimum requirements (45 FR 9903). Hence, those regulations form the appropriate trading baseline for the units to which they apply. In approving the area's SIP, EPA assumed that units that the SIP would not regulate could continue to emit what they were emitting at the time of the SIP approval without interfering with timely attainment and maintenance of the ozone standard in the parish. Thus, the actual emissions at that time of an unregulated unit in the area form the appropriate trading baseline for such a unit.

The only regulation that could apply to the Conoco oxychlorination vent stream and thereby form the trading baseline for any part of the stream is Louisiana Air Quality Regulation 22.8. The relevant portion of that provision states:

Any waste gas disposal stream containing organic compounds from any emission source including those emissions from process unit upsets, start-ups, and shutdowns shall be controlled by one of the following methods:

(a) Nonhalogenated hydrocarbons shall be burned at 1300 degrees F (704 degrees C) for 0.3 seconds or greater in a direct-flame afterburner or any equally effective device.

(b) Halogenated hydrocarbons shall be burned and the products of combustion subsequently controlled. The hydrocarbons shall be combusted and the halogenated products of combustion shall be reduced to an emission level acceptable to the Assistant Secretary.

EPA approved all of § 22.8 except subsection (b) for inclusion into the Louisiana SIP. Hence, the SIP requires control only of the non-halogenated compounds in the oxychlorination system. There is no indication that EPA relied, in approving the SIP as a whole, on the possibility that control of the nonhalogenated compounds would necessarily result in control of the halogenated compounds. The baseline for the nonhalogenated part of the stream is therefore the level associated with incineration of that portion, and the baseline for the halogenated part is the actual emissions from that part at the time EPA approved the area's SIP.

Conoco seeks credit for the reductions resulting from the 1983 incineration of the entire VCM stream. Since the baseline for the nonhalogenated part of the stream, however, is the emissions level associated with incineration, Conoco's incineration of those compounds has produced no reductions beyond the baseline and therefore no credit. By contrast, the company's incineration of the halogenated portion of the stream has reduced emissions well below the level of actual emissions resulting from those compounds when EPA approved the SIP in 1980. Thus, that additional reduction is surplus. That surplus reduction (3936.8 tons/year) is sufficient to offset the combined allowable emissions increases that the state has requested for the separators and the batch oxidation reactor 1178 tons/year).

Enforceability was to have been based on an agreement Conoco signed with the LECC on February 12, 1980 which specifies the requirements and conditions for receiving ERC's from the control of their VCM plant. The permits for the bubble, as submitted by the State, however, lacked adequately enforceable limits for all of the sources involved. The State committed to issue a revised permit which incorporates appropriate limits. Therefore, this bubble meets the requirement of enforceability only on condition that the State permit, when issued, contains specific emission limits for the two separators, the two alcohol batch plant vents, and the oxychlorination vent.

The permit to be issued by the State for this bubble will contain permanent emission limits for the VCM unit as well as the other sources in the bubble and

will become part of the federally approved SIP.²

EPA has determined that the emissions involved are quantifiable in the creation of emission reduction credits.

The Conoco bubble plan also meets the other criteria outlined in the Emissions Trading Technical Issues Document published in the April 7, 1982 Federal Register (47 FR 15079). The Technical Issues Document specifies the following technical requirements for using emission reduction credits:

1. Emissions trades must involve the same pollutant.

The proposed bubble plan trades an increase in VOC emissions from the two oil-water separators and two batch oxidation reactors for an even greater decrease in VOC emissions from the VCM unit. Since all such emissions are classified as VOC's, they may be traded on an equal basis, or "pound for pound."

2. All uses of emission reduction credits must satisfy ambient tests.

EPA considers "pound for pound" trades of VOC emissions as equal in ambient effect. Therefore, the proposed trade meets this requirement.

3. Trades should not increase net baseline emissions in nonattainment areas.

This bubble plan proposes to trade an increase in VOC emissions from the oil-water separators and batch oxidation reactors for an even greater decrease elsewhere. Moreover, Conoco controlled the separators by December 31, 1983, thus resulting in a further reduction of 434 tons per year. Therefore, net VOC emissions after the trade will be lower than the level required by EPA-approved RACT regulations for Calcasieu Parish.

4. Emissions trades should not increase hazardous pollutants.

Hazardous pollutants are not increased as a result of this trade, but rather decreased; the emission reduction credits obtained from control of the VCM unit reflect the elimination of 60 tons per year vinyl chloride, a hazardous air pollutant regulated under National Emissions Standards for Hazardous Air Pollutants (NESHAP). Therefore, this trade results in a net reduction of hazardous air pollutants.

5. Emissions trades cannot be used to meet technology-based requirements.

This bubble trade involves existing sources, so New Source Performance

²Since submittal of the bubble proposal, Conoco has sold its Lake Charles Chemicals plant to Vista Chemicals, Inc. The revised permit emissions limitations will apply to Vista since they now own the sources being bubbled.

Standards (NSPS), lowest achievable emission rate (LAER), and best available control technology (BACT) are not applicable.

Based on EPA's review, the Conoco bubble substantially meets the requirements set forth in the April 7, 1982 Emissions Trading Policy Statement. Therefore, EPA is proposing to approve the Conoco bubble plan. This approval is conditioned, however, upon issuance by the State of a revised permit containing enforceable emissions limits for each source involved in the bubble. EPA will not take final action on this proposal until an approvable permit has been submitted.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 48 FR 8709)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Authority: 42 U.S.C. 7401-7642.

Dated: November 2, 1984.

Dick Whittington,

Regional Administrator.

[FR Doc. 85-14442 Filed 6-14-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 60

[AD-FRL 2837-4]

Standards of Performance for New Stationary Sources—Subpart BB; Kraft Pulp Mills; Alternative Monitoring Procedure

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of proposed amendments.

SUMMARY: On August 17, 1984 (49 FR 32987), EPA proposed amendments to § 60.284 of Subpart BB of 40 CFR Part 60 to allow the use of an alternative monitoring procedure, requested by Contraves Goerz Corporation, 620 Epsilon Drive, Pittsburgh, Pennsylvania 15238. The alternative procedure involved monitoring carbon dioxide instead of oxygen to correct the measured total reduced sulfur (TRS) concentrations emitted from kraft pulp

mill recovery furnaces to 8 percent oxygen.

This Federal Register notice responds to public comments on the proposal and announces EPA's final action to withdraw the proposed alternative.

This final action is based on data submitted during the comment period showing that (1) the proposed 11.4 percent CO₂ is not consistently equivalent to 8 percent O₂ as original data supporting the proposal had indicated, and (2) only in some cases, source-specific CO₂ correction factors could be developed, but extensive testing would be required.

EFFECTIVE DATE: The proposed alternative is withdrawn as of June 17, 1985.

ADDRESSES: Docket. Docket No. A-84-18, containing materials relevant to this rulemaking, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (LE-131), West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Roger T. Shigehara, Emission Measurement Branch (MD-19), Emission Standards and Engineering Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-2237.

SUPPLEMENTARY INFORMATION:

I. Public Participation

The proposal notice was published in the Federal Register on August 17, 1984 (49 FR 32987). Public comments were solicited at the time of proposal. The comment period ended on October 31, 1984. The EPA received two comment submittals on the proposal.

II. Major Comments on the Proposal

Commenters of the proposals were The Buckeye Cellulose Corporation (A-84-18, IV-D-1) and the National Council of the Paper Industry for Air and Stream Improvement, Inc. (A-84-18, IV-D-2a). Data submitted by the commenters showed that TRS concentrations obtained from the proposed 11.4 percent CO₂ would differ by + 13 percent to - 32 percent from TRS concentrations obtained from 8 percent O₂. However, in some cases, CO₂ correction factors had consistent relationships to 8 percent O₂; therefore, the commenters recommended that sources be allowed to develop source-specific CO₂ correction factors.

The EPA considered the commenters' recommendations, but concluded that the data submitted were insufficient to develop a procedure for establishing the

CO₂ correction factor and criteria for determining when follow-up tests must be conducted to verify the validity of the correction factor. The latter is necessary because the chemical composition of black liquor, which varies with wood supply, digester cooking conditions, chemical makeup requirements, and other factors, affects the CO₂ correction factor. However, this does not preclude applicable sources from establishing a source-specific CO₂ correction factor. Under § 60.13(i), interested sources may submit a written application, which includes a proposal of the above mentioned procedures and criteria, for approval on a case-by-case basis.

III. Administrative

The docket is an organized and complete file of the information considered by EPA in the development of this action. The docketing system is intended to allow members of the public and industries to participate effectively in the rulemaking process and to serve as the record in case of judicial review (section 307(d)(7)(A)).

This action was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB to EPA and any EPA responses to those comments are available for inspection in Docket Number A-84-18, Central Docket Section, at the address given in the ADDRESSES section of this preamble.

This rulemaking is issued under the authority of sections 111, 114, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411, 7414, and 7601(a)).

List of Subjects in 40 CFR Part 60

Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Incorporation by reference, Paper and paper products.

Dated: June 4, 1985.

Lee M. Thomas,

Administrator.

[FR Doc. 85-14380 Filed 6-14-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 712

[OPTS-82013B; FRL-2851-7]

Comprehensive Assessment Information Rule; Public Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meetings.

SUMMARY: The Environmental Protection Agency is going to conduct a series of

public meetings to discuss the concept and reporting requirements of a new comprehensive reporting rule. The rule, which is being developed under section 8(a) of the Toxic Substances Control Act (TSCA), will contain an extensive list of questions for which reporting by chemical manufacturers, importers, and processors may be required. Each time data are needed on a chemical the rule will be amended. The subject chemical and the specific question(s) which must be reported on will be listed in the amendment. Only those data elements which are of primary interest to the users of the data will be requested. EPA will use this rule to obtain information needed by it and other Federal agencies to support assessments of and regulations on chemical substances.

DATES: The first meeting will be held Wednesday, July 17, 1985, from 9 a.m. to

4:30 p.m. and will continue on Thursday, July 18, if necessary. The second meeting will be held Tuesday, July 30, 1985 from 9 a.m. to 4:30 p.m. and will continue on Wednesday, July 31, if necessary. Persons interested in attending these meetings, or who would like time on the agenda, should contact the TSCA Assistance Office on or before July 10, 1985.

ADDRESS: The meetings will be held at the Skyline Inn, South Capitol and I Sts., SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460. Toll free: (800-424-9065). In Washington, D.C.: (554-1404). Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: The first meeting, on July 17, will be concerned with policy and the concept of the rule, including such topics as: "Who should be subject?" "What chemicals should be added to the rule?" The next meeting, on July 30, will deal with the actual reporting form. This meeting will discuss such issues as: "What questions should be included in the form?" "What degree of accuracy should be required?" etc.

If you would like a copy of the draft rule or form before the meetings, call one of the numbers given under "**FOR FURTHER INFORMATION CONTACT**" in this Notice.

Dated: June 11, 1985.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 85-14444 Filed 6-14-85; 8:45 am]

BILLING CODE 6560-50-M

Notices

Federal Register

Vol. 50, No. 116

Monday, June 17, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

International Trade Administration

[C-122-404]

Final Affirmative Countervailing Duty Determination; Live Swine and Fresh, Chilled and Frozen Pork Products from Canada

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to producers or exporters in Canada of live swine and fresh, chilled and frozen pork products. The net subsidy is Can\$0.03272/lb. dressed-weight (Can\$0.02602/lb. live-weight) and the bonding rate is Can\$0.025523/lb. dressed-weight (Can\$0.04390/lb. live-weight). We have notified the United States International Trade Commission (ITC) of our determination. We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of live swine and fresh, chilled and frozen pork products that are entered, or withdrawn from warehouse, for consumption, after April 3, 1985, and to require a cash deposit or bond on entries of these products.

EFFECTIVE DATE: June 17, 1985.

FOR FURTHER INFORMATION CONTACT: Gary Taverman or Mary Martin, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone (202) 377-0161 (Taverman) or (202) 377-3464 (Martin).

SUPPLEMENTARY INFORMATION: FINAL DETERMINATION

Based upon our investigation, we determine that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to producers or exporters in Canada of live swine and fresh, chilled and frozen pork products. For purposes of this investigation, the following programs are found to confer subsidies:

Federal Program

- Hog Stabilization Payments Provided Under the Agricultural Stabilization Act

Joint Federal/Provincial Program

- Record of Performance Program

Provincial Programs

A. Stabilization Programs

- British Columbia Swine Producers' Farm Income Plan
- Manitoba Hog Income Stabilization Plan
- New Brunswick Hog Price Stabilization Program
- Newfoundland Hog Price Support Program
- Nova Scotia Pork Price Stabilization Program
- Prince Edward Island Price Stabilization Program
- Quebec Farm Income Stabilization Insurance Program
- Saskatchewan Hog Assured Returns Program

B. Other programs

- New Brunswick Swine Assistance Program
- New Brunswick Loan Guarantees and Grants under the Livestock Incentives Program
- New Brunswick Hog Marketing Program
- Nova Scotia Swine Herd Health Policy
- Nova Scotia Transportation Assistance Program
- Ontario Farm Tax Reduction Program
- Ontario (Northern) Livestock Programs
- Prince Edward Island Hog Marketing and Transportation Subsidies
- Prince Edward Island Interest Payments on Assembly Yard Loan
- Quebec Meat Sector Rationalization Program

- Quebec Special Credits for Hog Producers

- Saskatchewan Financial Assistance for Livestock and Irrigation

We determine the net subsidy to be Can\$0.03272/lb. dressed-weight (Can\$0.02602/lb. live-weight) and the bonding rate to be Can\$0.05523/lb. dressed-weight (Can\$0.4390/lb. live-weight).

Case History

On November 2, 1984, we received a petition from the National Pork Producers Council (NPPC) on behalf of the domestic pork producers, which include hog producers and packers of unprocessed pork products. Seven domestic pork packers are co-petitioners. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleged that producers or exporters in Canada of live swine and fresh, chilled and frozen pork products directly or indirectly receive benefits which constitute subsidies within the meaning of section 701 of the Act, and that these imports materially injure or threaten material injury to a U.S. industry. We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on November 23, 1984, we initiated such an investigation (49 FR 47079). We stated that we expected to issue a preliminary determination by January 26, 1985. On January 4, 1985, we determined this investigation to be "extraordinarily complicated" as defined in section 703(c)(1)(B) of the Act. Therefore, we extended the period for making our preliminary determination by 65 days until April 1, 1985 (50 FR 1613).

Since Canada is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the ITC of our initiation. On December 19, 1984, the ITC determined that there is a reasonable indication that these imports materially injure a U.S. industry (49 FR 50315).

We presented a questionnaire concerning the allegations to the government of Canada in Washington, D.C. on December 11, 1984. On January 29, 1985, we received a response to the questionnaire. We received

supplemental responses on February 19, 20, March 5, 11, and 14, 1985.

Subsequent to our initiation, we received timely requests for exclusion from several Canadian firms. Questionnaires were presented to these firms in order that the Department might determine the extent to which they may have benefitted from the alleged subsidy programs. Responses were received on February 25, 1985. We also received statements from the Canadian federal and provincial governments certifying that no benefits were provided to those Canadian firms requesting exclusion.

On the basis of information contained in these responses, we made a preliminary determination on March 26, 1985 (50 FR 13264). We verified the responses of the federal and provincial governments and the companies requesting exclusion in Ottawa and in the major cities of each province from April 1 to May 7, 1985.

At the request of both the petitioners and respondents, we held a hearing on May 9, 1985, to allow the parties an opportunity to address the issues arising in the investigation. Both petitioners and respondents filed briefs discussing these issues before and after the hearing.

Standing of Petitioner

The petition was filed by the National Pork Producers Council, an association of domestic hog growers, naming imports of live swine, and fresh, chilled and frozen pork products from Canada as the products to be investigated. Because the NPPC is an association of hog growers, respondents challenged its standing to file a petition against fresh, chilled and frozen pork products.

Seven pork packers, including one of the largest in the United States, are now co-petitioners. As producers of fresh, chilled and frozen pork products, they produce the product like the pork products under investigation and are therefore domestic interested parties qualified to be petitioners. They properly acquired co-petitioner status by filing pursuant to § 355.7(i) of the Commerce Regulations (19 CFR 355.7(i)). It is the Department's practice to presume industry support for a petition unless producers of a substantial proportion of the product under investigation come forward in opposition. In this case, packers expressed affirmative support for the petition.

Scope of the Investigation

The products covered by this investigation are live swine and fresh, chilled and frozen pork products, as currently provided for in items 100.8500, 106.4020, and 106.4040 of the *Tariff*

Schedules of the United States, Annotated (TSUSA).

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the current investigation. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, 1984, issue of the *Federal Register* (49 FR 18006).

There are approximately 36,000 producers and exporters in Canada of live swine and fresh, chilled and frozen pork products. For purposes of this final determination, the period for which we are measuring subsidization ("the review period") is fiscal year 1984—April 1, 1983, to March 31, 1984.

All values referred to are expressed in Canadian dollars.

Upstream Issue

Respondents argue that we must apply the upstream subsidies provision of the Trade and Tariff Act of 1984, section 613, to measure the amount of any benefit received by hog growers which is passed through to pork packers. They claim that section 613 governs the analysis of subsidies on input products, and argue that live swine are an input into the production of unprocessed pork meat. They note that live swine are sold by farmers to unrelated pork packers in arms-length transactions and claim that this supports their argument that live swine is an input into pork meat. Respondents conclude that if we do apply the upstream subsidy analysis, as they claim section 613 requires, we will find that no "competitive benefit" has been bestowed on the production of unprocessed pork.

We disagree with respondents that section 613 governs this case. Before we conduct an upstream subsidy investigation, we must have "reasonable cause to believe or suspect that an upstream subsidy, as defined in section 771(A)(a)(1), is being paid or bestowed." 19 U.S.C. 1671(g), as amended by section 613(b). Section 771(A)(a)(1) in part defines upstream subsidy as a subsidy paid or bestowed on an "input product" that accordingly bestows a competitive benefit on the product under investigation. As explained more fully below, we do not consider live swine to be an "input" into unprocessed pork. Without cause to believe or suspect that an upstream subsidy was being paid or bestowed with respect to unprocessed pork, we are not mandated by section

613 to conduct an upstream investigation and have not done so.

The Trade and Tariff Act of 1984, which amended the Tariff Act to provide for upstream subsidies, gives little guidance on the meaning of the term "input". The legislative history also does not provide decisive guidance. We believe there are two characteristics which evidence that live swine should not be considered an "input" into fresh, chilled and frozen pork products. These characteristics are level of value added and the role of the producer.

Empirically, one does not consider something as an "input" into something else when there is a low level of value added at a given stage of processing. Take, for example, steel pipe at the threading stage. No one would consider unthreaded pipe as an "input" into threaded pipe. Likewise, no one would consider unsifted iron ore as an "input" into sifted iron ore. This is true even though the products are at different stages of production, and the intervening process does change the form of the product in some way.

Operations such as threading or sifting do not add significantly to the value of the pipe or the iron ore. Thus, a low level of value added at a given level of processing is an indication that the prior stage product entering that level is not an input into the processed product.

The role of the processor at the stage in question is also significant. In each of the examples cited above, the latter processor was merely making the product ready for the next consumer. For example, unsifted iron ore is of little use to anyone but iron ore sifters.

The salient criterion is the degree to which the demand for the prior stage product is dependent on the demand for the latter stage product. For example, steelmakers' demand for sifted iron ore determines the iron ore sifter's demand for mined iron ore. However, it cannot be said that automakers' demand for steel determines the steelmakers' demand for iron. In the first example, the demand for the prior stage good is derived almost exclusively from the demand for the latter stage; in the second example it is not.

The fact that a sale, an arms-length transaction, occurs between these stages of processing does not mean that the prior stage product is an input. To see this, take the example of a trading house that purchases shirts from a clothing manufacturer. The trading house may perform some further processing in the form of packaging the shirts or putting them on hangers or sewing on labels before reselling them. It seems clear to us that although the

trading house may have purchased the shirts at arm's length, a subsidized, unpacked and unlabeled shirt becomes a subsidized packed and labeled shirt.

We have evaluated whether live swine are an input into fresh, chilled and frozen pork products in terms of the characteristics described above. In value-added terms, the packing stage consisting of immobilizing, stunning, dehairing, eviscerating, splitting, etc. does not contribute significantly to the value of the live swine. According to *Live Swine and Pork from Canada*, Inv. No. 701-TA-224 (Preliminary), USITC Pub. 1625 at 5 (December 1984), the value added at the packing stage is only 10 percent.

Moreover, the packers are merely making the swine ready for the next consumers, consumers of pork meat. The consumers are wholesale purchasers of pork meat for resale as pork, such as grocery chains, and further processors who produce bacon, hams, etc. The demand for the slaughtered and quartered swine is by far the predominant determinant of the demand for live swine.

Therefore, we conclude that live swine are not an input into fresh, chilled and frozen pork products.

In a case concerning an agricultural product such as this, it is particularly inappropriate to term the raw product an "input" into the next-stage or further processed product. In passing the Trade Agreements Act of 1979, Congress gave express recognition to the "special nature of agriculture," foreseeing that the analyses in antidumping and countervailing duty cases involving agricultural products would differ from analyses in cases pertaining to industrial products. See S. Rep. No. 249, 96th Cong., 1st Sess. 88, 91 (1979). As the ITC stated in *Lamb Meat from New Zealand*,

Although it was discussed under the legislative history of section 771(7), the definition of the term "material injury," it unquestionably evidences congressional awareness of unique problems that could be confronted in providing relief under the statute for certain agricultural commodities.

Inv. No. 701-TA-80 (Preliminary), 46 FR 56677, 56678 n. 18 (1981). The ITC, which has been called upon more often than we to deal with distinctions regarding agricultural products, has developed a two-part test for collapsing producers of a raw agricultural product and producers of a more processed product into a single industry. See, e.g., *Frozen Concentrated Orange Juice*, Inv. No. 701-TA-184, USITC Pub. No. 1406 (July 1983); *Lamb Meat*, supra; *Sugar From the European Community*, Inv. No. 104-TAA-7 (May 1982), *Certain Red*

Raspberries from Canada, Inv. No. 731-TA-135 (April 1984). First, the raw product can be sold in only one market; it enters "a single, continuous line of production resulting in one end product." *Frozen Concentrated Orange Juice*, at 19; *Lamb Meat* at 46 FR 56678. Second, the ITC looks for commonality of economic interest. *Id.* The Court of International Trade recently assented to the first prong of the ITC's test when it upheld the Commission's determination not to combine grape growers and wine producers in a single industry in *Certain Table Wines From France and Italy*, Inv. No. 701-TA-210 and 211 (Preliminary), USITC Pub. No. 1406 (July 1983). The court stated, "The logic of the legislative concern . . . extends only to agricultural products which are completely devoted to the production of the more advanced product under investigation." *American Grape Growers v. United States*, 19 Cust. Bull. 57, 58 (March 11, 1985). In each of the cases cited above, the court noted that "substantially all of the raw product was dedicated to the production of the product under investigation." *Id.* at 59 (emphasis in original).

Live swine and unprocessed pork are closely analogous to sheep and lamb meat or to sugar beet/sugar cane and refined sugar that were the subject of cases cited by the court, and to others, as well, such as fresh whole fish and filleted fish investigated in *Fish, Fresh, Chilled or Frozen, Whether or Not Whole, but Not Otherwise Prepared or Preserved, from Canada*, Inv. No. 701-TA-40, USITC Pub. No. 1066 (May 1980). The court did not address the second part of the ITC's test. Nor did the ITC in its preliminary determination in this investigation. It seems, however, that pork packers have expressed their commonality of economic interest with hog growers by joining in or supporting the petition. See the section of this notice "Standing", supra.

The primary, if not the sole, purpose of all segments of the industry in this case is to produce a single end product—pork meat. Substantially all of the raw agricultural product, live swine, is dedicated to the production of unprocessed pork. The fact that beyond this stage many separate processed products can be made, e.g., canned ham and sausage, is irrelevant. The key is that there is a single, continuous line of production from live swine to unprocessed pork.

As the legislative history of the upstream subsidies provision indicates, Congress intended that section 813 generally codify our past practices. In reviewing our own practice, we find two instances where we have investigated

subsidies which are bestowed on the production of a raw agricultural product which is then used to produce a next-stage product that was the subject of an investigation; *Lamb Meat from New Zealand: Preliminary Affirmative Countervailing Duty Determination*, 46 FR 58128 (1981), and *Certain Fish from Canada: Final Countervailing Duty Determination*, 43 FR 25996 (1978). In the *Lamb Meat* investigation, we preliminarily determined that subsidies bestowed on lamb provide an equal benefit to packed lamb meat, while in the *Fish* case we concluded that subsidies bestowed on whole fresh fish provide an equal benefit to filleted but not further processed fish. In both cases, we arrived at the net subsidy by totaling the benefits granted to the producer of the raw agricultural product (lamb and fish) and the producers of the next-stage product (lamb meat and filleted fish). Because Congress intended that section 613 codify our prior practices, we conclude that Congress did not intend that we alter our practices in situations similar to those arising in *Lamb Meat* and *Certain Fish*.

Given the congressional mandate to acknowledge the special nature of agriculture, our practice, the ITC's past practice, which is now sanctioned by the Court of International Trade, and the reasonableness of treating the raw and next-stage product together for purposes of subsidy analysis, we do not consider live swine to be an input into unprocessed pork.

Our conclusion that live swine is not an input into pork products is supported by one additional factor—absent such a finding, growers of live swine would be able to circumvent the imposition of countervailing duties. If we are to find that benefits to live swine do not benefit pork meat, and were to impose duties only on live swine, subsidized growers could avoid the imposition of duties on their product by selling through pork packers, who simply slaughter and trim the swine, and then export the product to the U.S. in the form of pork meat.

We recognize that, when we impose countervailing duties on a given product, exporters may be encouraged to shift exports from that product to some form of the same product at a prior or later stage of processing. However, in the case of an agricultural product such as pork, producers can shift very easily to the production of latter-stage products, by making only minor changes to that product. In this case, it is reasonable to assume that if countervailing duties were imposed only on live swine, exports to the U.S. would shift almost

instantaneously to fresh, chilled and frozen pork.

As noted *supra*, we do not consider one product to be an input into the next-stage product when the value added at that next stage is small. We believe that value added is also an accurate measurement of the relative ability to shift exports to the next stage of production, thereby circumventing the imposition of countervailing duties. In the examples of threaded pipe and iron ore cited above, where the primary product is distinguished from the next-stage product only by minor processing, it would be inappropriate to impose duties only upon the primary product. Producers would sell through next-stage processors, who would add little to the value of the product, but who would then be able to export to the U.S. without the liability of countervailing duties.

An analogous situation is our treatment of goods sold through a trading house. In the past, we have totaled the benefits received by the producers of the good and the benefits received by the trading house to determine the net subsidy for the good. We believe this to be an appropriate approach, since in its absence, producers who receive countervailable benefits would be able to circumvent easily the imposition of countervailing duties by selling through unsubsidized trading houses that obtain exclusions. One should not be able to circumvent an order in such a way.

For all of these reasons we determine that section 613 is not applicable to this case.

In light of this decision, the requests for exclusion by the packers of unprocessed pork will not be considered.

Based upon our analysis of the petition, the responses to our questionnaire, our verification, and comments filed by petitioners and respondents, we determine the following:

I. Programs Determined To Confer Subsidies

We determine that subsidies are provided to producers or exporters in Canada of live swine and fresh, chilled and frozen pork products under the following programs:

A. Federal Programs

1. Hog Stabilization Payments Provided Under the Agricultural Stabilization Act

The Agricultural Stabilization Act (ASA) of 1957-58 was enacted to provide for the stabilization of the prices of certain agricultural commodities.

Three groups of commodities are explicitly provided for within the ASA (cattle, hogs and sheep; industrial milk and industrial cream; and corn, soybeans, oats and barley). Other natural or processed agricultural products, with certain exceptions, may be designated by the Governor in Council. Programs of the ASA are administered by the Agricultural Stabilization Board (the Board), whose members are appointed by the Governor in Council.

The Board has the duty to take such action in accordance with the ASA as is necessary to stabilize the prices of the covered agricultural commodities at their prescribed prices, and the power to "pay to producers of an agricultural commodity . . . the amount by which the prescribed price exceeds a price determined by the Board to be the average price by which the commodity is sold . . ." Chapter A-9, section 10(1)(b).

The mechanism by which the stabilization payment is determined is as follows: (1) A "base price," which is the average price of the commodity in representative markets for the 5-year period immediately preceding the year in review, is established; (2) a "prescribed price" is determined by taking a minimum of 90 percent of the base price and adjusting it by an index reflecting changes in production costs; and (3) an "average market return price" for the commodity for the year in review is established. The difference between the prescribed price and the average market return price is the amount of the gross stabilization payment.

In fiscal year 1984, because the average market price for hogs, Can\$66.98/cwt., fell short of the prescribed price, Can\$71.75 cwt., the federal government authorized a stabilization payment of Can\$4.77/cwt. or Can\$8.19/hog. This amount was reduced by approximately 20 percent to reflect the proportion of Canadian production which was exported in fiscal year 1984, resulting in a net payment of Can\$6.54/hog. All producers who sold hogs of index 80 (a grading factor) or better for slaughter were eligible for benefits under this program provided they submitted an application with appropriate proof of sale and slaughter. For 1983-84, there was a participation ceiling of 12,000 hogs per producer.

To avoid double counting, the federal government deducted the amount of any provincial stabilization payment from the federal stabilization payment before it reimbursed each producer. If the provincial payment was greater than or equal to the federal payment, the federal government made no stabilization

payment. If the federal government exceeded the provincial payout, the federal government paid the producer the difference between the federal and provincial stabilization payments.

Respondents have claimed that ASA payments are part of a nationwide fabric of programs covering farm products and are not countervailable because they are provided to more than a specific enterprise or industry, or group of enterprises or industries. In support of their claim, they cite several previous Department rulings that the benefits provided to the agricultural sector are not limited in availability within the meaning of section 771(5)(B). See *Final Negative Countervailing Duty Determination: Fresh Cut Flowers from Mexico* (49 FR 15007) and *Final Negative Countervailing Duty Determination: Fresh Asparagus from Mexico* (48 FR 21618).

We disagree with respondents' claim. Based on the information received, we find that ASA payments are made only to selected agricultural producers and that the level of price stabilization payments varies, at the discretion of the Agricultural Stabilization Board, from commodity to commodity. As such, we cannot conclude that ASA payments are available to more than a specific enterprise or industry, or group of enterprises or industries, for the following reasons:

(a) The legislation establishing the ASA program specifically lists "named products" that are eligible for price support payments: Livestock (cattle, hogs and sheep), certain dairy products (industrial milk and industrial cream), and certain grains (corn, soy beans, oats and barley). The ASA further allows the Governor in Council to designate other agricultural products ("designated products") for coverage.

Thus, three types of products are singled out in the legislation. Each year, prescribed prices are automatically calculated for these named products, and if the prescribed price exceeds the average market price, payments can be authorized. Moreover, the ASA directs that for named products prescribed prices will be calculated as at least 90 percent of the base price (adjusted by a production cost index).

When we compare this treatment of named products to that of designated products, we find that designated products are only considered for ASA payments if the Governor in Council so directs. There is no automatic calculation of a prescribed price and no guaranteed potential for ASA payments, as is the case with named products. Also, there is no legally mandated

coefficient to be applied to the base price of designated products.

(b) A second aspect of the scheme which leads us to conclude that ASA payments benefit a specific enterprise or industry, or group of enterprises or industries, is the lack of neutrality in the formula for calculating the prescribed price. As noted above, there is not a prescribed coefficient for designated products, nor are there guidelines followed by the Board in making this determination. Even among the named products, there is discretion in setting the coefficient to be applied to the base price. Ninety percent only serves as a minimum.

(c) A third aspect of the scheme which leads us to our conclusion is the way in which the Canadian federal government appropriates funds for stabilization schemes covering named and designated commodities. Funding for named commodities is approved as a "statutory item" in the budget through existing legislation, i.e. the legal authority exists for the Board to support named commodities without the need for additional parliamentary approval. In contrast, funding for designated commodities is considered a "vote item" in the budget, and, as such must be approved by Parliament as a specific appropriation for a specific purpose.

(d) Other aspects of government discretion can be found within the specific stabilization schemes themselves. For example, to qualify for stabilization under the hog program, producers must sell hogs with a minimum grade factor of 80. Thus, all hogs are not eligible for stabilization payments; only those meeting the minimum grading threshold. In addition, the government will establish the maximum number of hogs for which payment can be made. In the 1979 and 1980 hog programs, the maximum was 5,000 per individual of 15,000 per enterprise; this was changed to a maximum of 12,000 per individual or enterprise.

The benefits provided under the ASA are analogous to those provided, and found to be countervailable, under programs such as the EC Common Agricultural Policy (CAP) program in *Tomato Products from the European Community* (44 FR 15825), and *Dextrines and Solubles from Corn Starch from the European Community* (45 FR 18414). Like the CAP, the ASA includes numerous programs available for many different agricultural products. Both programs provide payments in specific amounts to producers or processors of selected agricultural commodities in order to ensure that prices or returns are at certain pre-determined levels.

Producers or processors of particular agricultural products are eligible to receive payments in amounts established yearly for each particular product found to warrant support.

The payments countervailed in the two cited EC cases and the benefits provided under the ASA are distinguishable from FIRA loans in *Flowers* and lower prices for water for irrigation in *Asparagus*. There were no specifically named products in the FIRA loan program or the irrigation program. Loans and water were provided to anyone engaged in agricultural production, regardless of product or level of production. Therefore, unlike the benefits discussed in *Flowers* and *Asparagus*, and like the benefits discussed in *Tomatoes* and *Dextrines*, we believe (1) that ASA payments are made to selected agricultural products in specific amounts, (2) that the specific rates of support provided depend upon the commodity in question, and (3) that there is governmental discretion in the administration of the various stabilization schemes. Hence, we find the payment provided under the ASA to be countervailable.

Calculation of Benefit

In deciding whether to allocate the benefit arising from stabilization payments to the year of receipt or over time, we have examined whether the program under which the payments are authorized is exceptional; i.e., has the program been established for a period of years, or is it designed as a "one-time, shot-in-the-arm" subsidy program for the live swine industry? In the case of recurring programs, we would allocate the benefit to the year of receipt; in non-recurring programs, we would allocate the benefit over time.

The support for this approach derives from the legislative history surrounding the Trade Agreements Act of 1979, where both the House and Senate Reports singled out "non-recurring subsidy grants or loans" for special treatment:

Reasonable methods of allocating the value of such subsidies over the production or exportation of the subsidies benefiting from the subsidy must be used.

S. Rep. No. 249, 96th Cong., 1st Sess. 85 (1979). See also H. Rep. No. 317, 96th Cong., 1st Sess. 75. In this case, we have determined that the Federal Hog Stabilization Program is long-standing. It was established in 1957 by the Agricultural Stabilization Act. Annual market prices and five-year prescribed prices have been calculated for almost 30 years; stabilization payments have been authorized for 3 of the last 5 years. In

addition, we have no reason to believe that the program will not continue. For these reasons, we have determined that the benefits provided under this program are not exceptional and should, therefore, be allocated to the year of receipt.

To calculate the benefit, we divided the value of the stabilization payments made during fiscal year 1984 (the period for which we are measuring subsidization) by the dressed-weight equivalent of all hogs marketed in that year. This resulted in a subsidy rate of Can\$0.000006/lb. dressed-weight (Can\$0.000004/lb.).

We have verified, and are now able to quantify, the value of the ASA payments that hog growers received on hogs marketed in fiscal year 1984. We are therefore adjusting those payments. We calculated the adjusted bonding rate by dividing the value of stabilization payments made in fiscal year 1985 (\$56,354,583) on the hogs marketed during our period of investigation by the total dressed-weight equivalent of all hogs marketed in fiscal 1984. This calculation resulted in a bonding rate of Can\$0.02251/lb. dressed-weight (Can\$0.01789/lb. live-weight).

B. Joint Federal/Provincial Program; The Record of Performance Program

The Canadian Swine Record of Performance Program (ROP) is a joint federal and provincial herd testing system designed to assist swine producers in improving breeding stock and to encourage the production of uniform and high quality pork production at lower costs. Similar performance testing program exist for beef, dairy cattle, sheep, poultry and honey bees. (This is unlike the Hog Carcass Grading System, discussed in the "Programs Found Not to Confer Subsidies" section of this notice, in which a far larger number of commodities were eligible for the service.)

Purebred swine are tested for backfat, growth rate and feed conversion, in accordance with guidelines formulated by the Canadian Swine Record of Performance Advisory Board and Agriculture Canada. Information from the testing program enables within-herd ranking and comparisons of animals for genetic merit. The Canadian federal and provincial governments bear most of the cost of this program. Provincial government publications indicate that these programs have contributed to increased profits for hog producers, as a result of the improved market index of hogs and a decrease in the average age at market.

Because this program is limited to a specific group of enterprises or industries, we determine it to be countervailable. To calculate the benefit, we divided the total value of the federal and provincial government contributions to the program during the period for which we are measuring subsidization by the dressed-weight equivalent of all hogs marketed in that year. This resulted in a subsidy rate of Can\$0.00144/lb. dressed-weight (Can\$0.00114/lb live-weight).

C. Provincial Stabilization Programs

1. British Columbia Swine Producers' Farm Income Plan (SPFIP)

Created in 1979 pursuant to British Columbia's Farm Income Insurance Act of 1973, the SPFIP assures hog producers in British Columbia a specified level of return over certain basic production costs. The program is administered by the provincial Ministry of Agriculture and Food, the British Columbia Federation of Agriculture and the British Columbia Pork Producers' Association. The program is funded by contributions, in roughly equal proportions, by the provincial government and participating hog producers.

Participation in the program is voluntary and is open to all producers who are members of the British Columbia Pork Producers' Association and who have an annual production capacity of 300 eligible market hogs. Certain participation ceilings restrict the number of hogs for which the program provides coverage. There are also payment ceilings, above which benefits are reduced.

Participating hog producers receive stabilization payments in calendar quarters during which certain costs of production exceed market returns. Costs of production and market returns are determined monthly by the administering authorities. Stabilization payments are made quarterly and are equal to the difference between costs of production and market return, multiplied by the number of eligible hogs sold, less a discount representing the producer's contribution. Producers make contributions to SPFIP in all quarters, regardless of whether costs of production exceed market returns.

Respondents have claimed that stabilization payments in British Columbia are not countervailable because they are provided to more than a specific enterprise or industry, or group of enterprises or industries, and because the stabilization schemes are operated according to objective economic criteria. We are not persuaded by respondents' argument. At

verification we learned that, in addition to swine, nine other agricultural commodities currently have stabilization plans. However, neither the Farm Income Insurance Act nor its implementing regulation and guidelines establish procedures or criteria for when a commodity is to become subject to a stabilization plan. In practice, the British Columbia Federation of Agriculture takes the initiative to propose a stabilization plan to the province's Ministry of Agriculture and Food. The two entities consult together on such a proposal, but it is ultimately at the Ministry's discretion whether to implement a proposal.

There is also room for considerable variance in the treatment of those commodities for which stabilization plans are in place. For parity of benefits among the producers of different commodities to exist, it is essential that the cost of production elements in the stabilization formulae for the various commodities be comparable to one another. That is, the cost of production model used for the swine program should reflect the actual cost of production experience of swine producers to the same extent that the model for other commodities reflects the actual cost of production experience of producers of those commodities. Yet, both at the inception of a plan and whenever it is up-dated, the cost of production model for each commodity plan is also subject to consultation and negotiation between the Federation of Agriculture and the Ministry of Agriculture and Food. At verification, we learned that cost of production models are not necessarily an accurate reflection of cost of production experience of the relevant producer group. Thus, there exists the possibility that the incomes of producers of certain covered commodities are being stabilized to a significantly greater or lesser extent than those of others.

Even among swine producers, benefits are not available on equal terms, for it is only producers with an annual production capacity of at least 300 eligible market hogs who are eligible to participate.

For the foregoing reasons, we find that benefits provided under this program are limited to a specific group of enterprises or industries, and we determine this program to be countervailable. Dividing the provincial government's share of the fiscal year 1984 stabilization payments by the dressed-weight equivalent of all hogs marketed in that year, we calculated a subsidy rate of Can\$0.00060/lb. dressed-weight (Can\$0.00048/lb. live-weight).

2. Manitoba Hog Income Stabilization Plan (HISP)

Created in 1983 pursuant to the Farm Income Assurance Plans Act, the HISP provides income support payments to hog producers in Manitoba. The program is administered by the provincial Ministry of Agriculture and the Manitoba Hog Producers' Marketing Board. It is funded by premiums from participating producers and from the government of Manitoba. The government also makes loans to HISP, if needed, during periods when payouts are made to producers. Participation in the program is voluntary and is open to all producers registered with the Manitoba Hog Producer's Marketing Board. Coverage is limited to 1,250 hogs per calendar quarter, per producer, with special provision for higher ceilings for multiple family unit producers.

Participating producers receive payments at the end of each quarter in which the market price for hogs falls below an established support level. This price support level is 87 percent of a cost of production model, which is recalculated each quarter. Producer premiums, which currently are 5 percent of the settlement price, are deducted from the proceeds realized upon the sale of hogs. The provincial government's contributions are established at 2 percent of the settlement price. When combined producer premiums and government contributions are insufficient to finance stabilization payments, monies have been loaned from the provincial treasury to cover deficits.

The enabling legislation for this program, the Farm Income Assurance Plans Act, permits the Minister of Agriculture to establish income assurance plans for many natural products. However, in addition to swine, there is only one other commodity form which there is a stabilization scheme. Because stabilization benefits are limited to only these two products, we cannot find that stabilization payments in Manitoba are available to more than a specific group of enterprises or industries.

Dividing the provincial government's share of the fiscal year 1984 stabilization payments by the dressed-weight equivalent of all hogs marketed in that year, we calculated a subsidy rate of Can\$0.00131/lb. dressed-weight (Can\$0.00104/lb. live-weight).

3. New Brunswick Hog Price Stabilization Program

The New Brunswick Hog Price Stabilization Program, a joint program of

the New Brunswick Department of Agriculture and the Hog Marketing Board ("the Board"), was established in 1974. Its purpose is to assure hog producers greater income stability, to enable hog producers to remain in business during periods of low hog prices, and to provide a more uniform volume of pork production for the processing industry. In New Brunswick, all producers who market hogs through the Board are eligible to receive stabilization payments on 7,500 hogs per year. Hogs are the only agricultural commodity that receive stabilization payments in New Brunswick.

The Board establishes a stabilization price that is based on production costs. When the market price exceeds the stabilization price by \$5.00, farmers pay into the stabilization fund. Ninety-five percent of this amount is considered to be the farmer's equity in the program. When the average weekly market price falls below the stabilization price, farmers receive payments to make up the difference between the two prices. Half this amount is paid by the government of New Brunswick as an outright grant to the farmer. The other half is drawn from the farmer's equity in the fund. When the farmer has exhausted his equity in the fund, the province assumes the producer's portion of the payment by providing an interest-free loan. This loan is only paid back when the market price exceeds the stabilization price. In fiscal year 1984, the stabilization price exceeded the market price throughout the year, and producers received both loan and grant payments from the program.

Because these grants and interest-free loans are limited to a specific enterprise or industry, or group of enterprises industries, we find them to be countervailable. To calculate the benefit resulting from the grant portion of the payment, we allocated the total grant amount received in fiscal year 1984 over the dressed-weight equivalent of all hogs marketed in fiscal year 1984. We treated the loan portion of the payment as one-year, interest-free loans, rolled over into subsequent years, until the loan amounts are repaid. To calculate the benefit from these loans, we took the difference between the zero interest rate charged on these loans and the national average short-term commercial rate for comparable agricultural loans, and multiplied this interest differential by the total amount of loans outstanding in fiscal year 1983. We allocated the resulting benefit over the dressed-weight equivalent of all hogs marketed in fiscal year 1984. The total benefit from the program, including the grant and loan

portions of the payment is Can\$0.00068/lb. dressed-weight (Can\$0.00054/lb. live-weight).

4. Newfoundland Hog Price Support Program

In our preliminary determination, we referred to a program of low-interest loans to Newfoundland pork producers. We found at verification that this program, operating during fiscal year 1984, is a price stabilization program which provides pork producers interest-free loans from the provincial government equal to the difference between a stabilization price based on the cost of production and the market price for hogs.

However, that program was terminated and in April 1985 the provincial government set up a new price support program whereby hog producers receive 85¢ per pound on all market hogs regardless of the prevailing market price. Farmers receive this amount from the Newfoundland Farm Products Corporation, acting on behalf of the provincial government.

Because this program is limited to a specific enterprise or industry, or group of enterprises or industries, we find it to be countervailable. We determine that the benefit from this program is the difference between the 85¢ per pound that the producers actually received and the market price for hogs. However, since this program became effective only in April 1985, we do not have information on how much money will be spent on price support. As an estimate, we have used information from fiscal year 1984. We feel that the amount paid out in that year in loans under the price stabilization program is the best approximation of what will be paid out in the current fiscal year as grants under the price support program. Based on that information, we determine the benefit from this program to be Can\$0.00017/lb. dressed-weight (Can\$0.00013/lb. live-weight).

5. Nova Scotia Pork Price Stabilization Program (NSPPSP)

Pursuant to the Nova Scotia Natural Products Act, NSPPSP is administered under the Pork Producers Marketing Plan of August 9, 1983. The purpose of the program is to assure price stability with respect to the production of hogs by compensating farmers for fluctuations in the hog price cycles and by assuring that producers consistently recover direct operating costs. Participation is open to all hog producers who market hogs through the Nova Scotia Pork Price Stabilization Board (the Board). Maximum eligibility is established annual according to the

producers' existing production facilities. Hogs are the only agricultural commodity that receive stabilization payments.

The NSPPSP is funded by producer contributions to the Pork Price Stabilization Fund. Each quarter, the Board sets and reviews the stabilization price to reflect current, direct, out-of-pocket operating costs. When the weekly market price exceeds the stabilization price by Can\$3.00, the Board deducts the producer contributions from the sale price and deposits them in the Stabilization Fund. During periods of high prices, producers build equity in the fund with these payments. However, when the weekly market price falls below the stabilization price, the producers receive a deficiency payment which equals the difference between the two prices. Half of the payment is a grant to the producer from the province. The other half is drawn from the producer's equity in the fund. When the producer's equity is exhausted, the province assumes the producer's portion of the stabilization payment in the form of an interest-free loan, which is paid back only when the market price exceeds the contribution price. In fiscal year 1984, the stabilization fund was in a deficit position, and, accordingly, producers received both loans and grants from the province to cover their share of the payment.

Because these grants and interest-free loans are limited to a specific enterprise or industry, or group of enterprises of industries, we find them to be countervailable. To calculate the benefit resulting from the grant portion of the payment, we allocated the total grant amount received in fiscal year 1984 over the dressed-weight equivalent of all hogs marketed in fiscal year 1984. We treated the loan portion of the payment as one-year, interest-free loans, rolled over into subsequent years, until the loan amounts are repaid. To calculate the benefit from these loans, we took the difference between the zero interest rate charged on these loans, and the national average short-term commercial rate for comparable agricultural loans, and multiplied this interest differential by the total amount of loans outstanding in fiscal year 1983. We allocated the resulting benefit over the dressed-weight equivalent of all hogs marketed in fiscal year 1984. The total benefit from the program, including the grant and loan portions of the payment is Can\$0.00086/lb. dressed-weight (Can\$0.00068/lb. live-weight).

6. Prince Edward Island (PEI) Price Stabilization Program

In accordance with the PEI Natural Products Marketing Act, the PEI Hog Commodity Marketing Board established the PEI Price Stabilization Program in 1973. The purpose of the program is to provide income stability to hog producers by compensating them for fluctuations in prices caused by traditional hog-price cycles. The Stabilization Board and provincial lending authorities meet quarterly to determine the level of support prices. If the weekly market price of hogs exceeds the support price by Can\$3.00, producers contribute to the fund on a sliding scale indexed to the price of hogs. If the weekly market price of hogs falls below the contribution price, no contributions are made. If the weekly price of hogs falls below the stabilization price, the PEI Hog Commodity Marketing Board makes stabilization payments to cover the difference between the two prices. Half the payment is in the form of a grant from the province of PEI, the other half is drawn from the producer's equity in the fund. In the event that the producer's equity is exhausted, the province assumes the producer's portion of the payment by providing an interest-free loan which is then repaid from future producer contributions to the fund. Participation in the program is voluntary; there are no minimum production requirements. However, producers are only eligible to receive stabilization payments on the number of hogs equal to the average number of hogs marketed in the previous quarter, up to a ceiling of 3,400 hogs in four consecutive quarters. In 1984-85, the ceiling was raised to 4,300 hogs per year.

Because these grants and interest-free loans are limited to a specific enterprise or industry, or group of enterprises or industries, we find them to be countervailable. To calculate the benefit resulting from the grant portion of the payment, we allocated the total grant amount received in fiscal year 1984 over the dressed-weight equivalent of all hogs marketed in fiscal year 1984. We treated the loan portion of the payment as one-year, interest-free loans, rolled over into subsequent years, until the loan amounts are repaid. To calculate the benefit from these loans, we took the difference between the zero interest rate charged on these loans, and the national average short-term commercial rate for comparable agricultural loans, and multiplied this interest differential by the total amount of loans outstanding in fiscal year 1983. We allocated the resulting benefit over the dressed-weight equivalent of all hogs marketed in fiscal

year 1984. The total benefit from the program, including the grant and loan portions of the payment is Can\$0.00057/lb. dressed-weight (Can\$0.00045/lb. live-weight).

7. Québec Farm Income Stabilization Insurance Program

In accordance with the "Loi sur l'assurance-stabilisation des revenus agricoles," the government of Québec has enacted regulations establishing stabilization schemes for producers of both feeder hogs and weaner pigs. These programs are administered by the Régie des Assurances Agricoles du Québec (the Régie), a crown corporation that states that it operates on an actuarially-sound basis.

Participation in a stabilization scheme is voluntary; however, once a producer enrolls in a program, the producer must make a 5-year commitment. The farmer must have a minimum production of 100 feeder hogs or own at least 15 sows during the first year of enrollment. The maximum number of feeder hogs on which stabilization payments will be made is 5,000; and for sows it is 400. Funding is provided jointly by producers and the provincial government in the ratio of 1 to 2.

Throughout the production year, the Régie will make cash advances against the year-end stabilization payment. The year-end payment is based on a comparison of average market price with a production model designed to cover fixed and variable costs and producers' remuneration.

Respondents have claimed that stabilization payments in Québec are not countervailable because they are provided to more than a specific enterprise or industry, or group of enterprises or industries. We disagree with respondents' claim. Based on the information received, we find that Québec's stabilization payments are made to selected agricultural producers and that the level of price stabilization and the terms of each scheme varies, at the discretion of the Régie, from commodity to commodity.

While the legislation establishing the Régie contains no limitations on products that might be covered by a scheme, we must look at the *de facto* application of the law. A product may be covered by a scheme only if a specific regulation with respect to that commodity is passed by the provincial government. In fact, only 11 agricultural commodities are covered by stabilization schemes in Québec—lamb, sugar beets, beef, oats, wheat, barley, grain corn, potatoes, grain-fed veal, and feeder hogs and weaner pigs. Also, while respondents claim that the

decision to stabilize particular commodities is based on objective economic criteria, we have not been furnished with any evidence to support this claim. The government of Québec has not provided any of its Department of Agriculture, Food and Fisheries' briefs describing the general economic situations of the products sectors concerned, its forecasts of the economic evaluation in those sectors, nor Treasury Board recommendations to the Cabinet. There do not appear to be any established procedures or criteria for when a commodity is to become subject to a stabilization scheme.

In addition to the lack of evidence to support the assertion that schemes are based on objective economic criteria, we find that there are limitations on participation within particular schemes. Stabilization payments are not available to all producers of a commodity covered by a scheme, but only those producing at the minimum threshold level. For example, a farmer who produces 99 feeder hogs would be ineligible to participate in the feeder hog scheme, but a farmer with a production of 100 could. Minimum and maximum levels of participation are established at the discretion of the Régie.

As such, we conclude that stabilization payments in Québec are not available to more than a specific enterprise or industry, or group of enterprises or industries, and are therefore countervailable. We calculated the benefit by dividing the government of Québec's portion of the payments made to feeder hog and weaner pig producers in fiscal 1984 by the dressed-weight equivalent of all hogs marketed in fiscal year 1984. This resulted in a subsidy rate of Can \$0.02133/lb. dressed-weight (Can \$0.01696/lb. live-weight).

8. Saskatchewan Hog Assured Returns Program (SHARP)

SHARP was established in 1976 pursuant to the Saskatchewan Agricultural Returns Stabilization Act and provides stabilization payments to hog producers in Saskatchewan at times when market prices fall below certain production costs. The program is administered by the Saskatchewan Pork Producers' Marketing Board on behalf of the provincial Department of Agriculture.

Participation in the program is voluntary and is open to all hog producers in the province. Coverage is limited to 1,500 hogs per producer each calendar quarter. During the period we investigated, nearly 75 percent of all

hogs marketed in Saskatchewan were covered by the program.

This program is funded by contributions from participating producers and by matching amounts from the provincial government. Producer contributions range from 1.5 to 4.5 percent of market returns on the sale of hogs which are covered by the program. Whenever the balance in the SHARP account is insufficient to make payments to participants, the provincial government loans the needed funds to the program.

The stabilization price under this program is the total of all cash production costs plus 75 percent of non-cash costs. This price is determined each calendar quarter. Stabilization payments are made at the end of each quarter to each participating producer whose average price for hogs marketed in that quarter is less than the stabilization price. However, in order to make a stabilization payment, the difference between average market price obtained and the stabilization price must be at least Can\$1.00. For fiscal year 1984, the provincial share of the support payment to hog producers averaged Can\$8.09/hog.

Under the Saskatchewan Agricultural Returns Act, the provincial government may establish a stabilization plan for any agricultural commodity. However, in practice, only hogs and beef have such plans. Because stabilization benefits are limited to only these two products, we cannot find that stabilization payments in Saskatchewan are available to more than a specific group of enterprises or industries. By dividing the provincial government's share of the fiscal 1984 stabilization payments by the total dressed-weight equivalent of all hogs marketed in fiscal year 1984, we calculated a subsidy rate of Can\$0.00153/lb. dressed-weight (Can\$0.00122/lb. live-weight).

D. Other Provincial Programs

1. New Brunswick Swine Assistance Program

This program is administered by the Farm Adjustment Board under the Farm Adjustment Act. The program provides interest subsidies on medium-term loans to hog producers who are having problems with accumulated short-term liabilities or with start-up costs. These loans nominally are given to farmers at the provincial lending rate, but the Board pays an interest subsidy to the farmers equal to the average of the provincial lending rate and 7 percent. For example, a farmer taking out loans at 13 percent will pay an effective rate of 10 percent and the provincial

government will make up the rest in the form of an interest subsidy. It is not clear whether a farmer actually pays the full rate for the loan and receives the interest subsidy as a rebate from the Board or that the farmer simply pays the reduced rate of interest.

Because these interest subsidies are limited to a specific enterprise or industry, or group of enterprises or industries, we find them to be countervailable. Since we do not know the amount of loans disbursed or the manner by which the interest subsidies were paid, we used as best information available the Farm Credit Board's figure for the amount of interest subsidy paid in fiscal year 1984 and treated this amount as a grant allocated fully in that year. Dividing that amount by the dressed-weight equivalent of all hogs marketed in fiscal year 1984, we calculated a subsidy of Can\$0.000005/lb. dressed-weight (Can\$0.000004/lb. live-weight).

2. New Brunswick Loan Guarantees and Grants Under the Livestock Incentives Program

This program assists livestock producers by providing free loan guarantees to farmers purchasing breeder and feeder animals. In addition, at the end of three years, farmers having loans for breeder animals are eligible for grants equal to 20 percent of the principal amount if, by that time, the farmer has successfully implemented a farm improvement plan submitted when the loan was received.

Because these loans and loan guarantees are limited to a specific enterprise or industry, or group of enterprises or industries, we find them to be countervailable. We calculated the benefit from the guarantees to be the difference between the cost of the government guarantees and what it would have cost hog producers to get commercial guarantees on their total outstanding loans. In addition, we treated the 20 percent refund paid to hog producers on breeder loans in fiscal year 1984 as grants allocated to the year of receipt. The benefit from this program, including both loan guarantees and the 20 percent refund on breeder loans, is Can\$0.00004/lb. dressed-weight (Can\$0.00003/lb. live-weight).

3. New Brunswick Hog Marketing Program

With the closure of slaughterhouses in northern New Brunswick, it became more expensive for farmers in that area to move their hogs to market. The New Brunswick Department of Agriculture established this program to assist in equalizing the cost of moving hogs to

market across the Province. Funds are budgeted annually for the program based on the number of hogs marketed in previous years and on predicted expansion within the industry. Currently the provincial government pays \$1.25 per hog marketed through the Hog Marketing Board for this program.

Because these grants are limited to a specific enterprise or industry, or group of enterprises or industries, and constitute a government assumption of producers' transportation costs, we find them to be countervailable. Treating the funds paid by the government for this program in fiscal year 1984 as a grant and allocating the amount paid to the year of receipt, we calculated a benefit of Can\$0.00008/lb. dressed-weight (Can\$0.00006/lb. live-weight).

4. Nova Scotia Swine Herd Health Policy

The Nova Scotia Department of Agriculture and Marketing operates a program whereby it reimburses veterinarians for house calls to enrolled producers. Any hog producer may enroll in the program and must agree to follow specified health practices and to pay the veterinarian a stipulated fee for his services. Because this program is limited to a specific enterprise or industry, or group of enterprises or industries, we find it to be countervailable. Dividing the amount of the government expenditure by the total dressed-weight equivalent of all hogs marketed in fiscal year 1984, we calculated a benefit of Can\$0.00001/lb. dressed-weight (Can\$0.00001/lb. live-weight).

5. Nova Scotia Transportation Assistance

The Nova Scotia Department of Agriculture and Marketing provides a grant to the Hog Marketing Board to defray the cost of transporting hogs to pork processing facilities. The hog marketing board distributes these funds to each producer based on the number of hogs marketed per year and the distance from the processing facility. Because this grant is limited to a specific enterprise or industry, or group of enterprises or industries, we find it to be countervailable. Dividing the amount of the grant by the total dressed-weight equivalent of all hogs marketed in fiscal year 1984, we calculated a benefit of Can\$0.00006/lb. dressed-weight (Can\$0.00005/lb. live-weight).

6. Ontario Farm Tax Reduction Program

In accordance with Order-in-Council No. 2264/83, this program provides for the rebate of 60 percent of municipal property taxes on farmland to all

eligible farmers in Ontario. For a farm property to be eligible, annual municipal property taxes must be at least Can\$20, and it must realize a gross annual production of Can\$5,000 if located in eastern or northern Ontario, and Can\$8,000 if located elsewhere in the province. In our preliminary determination, we stated that this program appeared to be countervailable as a regional subsidy within the Province, and that we would seek additional information on the benefits received by the producers of live swine and fresh, chilled and frozen pork products.

At verification, we were told that the lower production requirements were established for northern and eastern Ontario because weather conditions in those sections of the province are more severe than in the rest of Ontario, and that the Can\$3,000 difference in the minimum production levels was intended to equalize eligibility for all Ontario farmers. Information was unavailable on specific benefits provided to individual commodity groups, or within specific regions of Ontario. Inasmuch as the eligibility criteria for this program vary depending on the region of Ontario where the farm is located, we determine this program to be a regional subsidy within the Province, and therefore countervailable. To calculate the benefit, we used as the best information available, that portion of the total payout under this program in fiscal 1984 that represents the proportion of swine production to total agricultural production in Ontario. By dividing that amount by the dressed-weight equivalent of all hogs marketed in fiscal year 1984, we calculated a subsidy rate of Can\$0.00339/lb. dressed-weight (Can\$0.00270/lb. live-weight).

7. Ontario (Northern) Livestock Programs

The Northern Ontario Livestock Improvement and Northern Ontario Livestock Transportation Assistance Programs were instituted pursuant to sections 5 and 6 of the Agriculture and Food Act. The improvement program reimburses farmers for 20 percent of the purchase costs of dairy cows, heifers, beef bulls, rams, ewes, and boars up to a maximum of Can\$1,500 per applicant whose livestock meet certain performance standards. No more than Can\$100 per animal may be paid on boars. The transportation program reimburses 50 percent of transportation costs when dairy animals, beef, sheep and swine meeting certain performance standards are purchased. The maximum amount any farmer may receive in a given year is Can\$2,000.

Inasmuch as these programs are limited to livestock producers in Northern Ontario, we determine this program to be both a regional subsidy within the province, and limited to a specific enterprise or industry, or group of enterprises or industries, and therefore, countervailable. By dividing the total amount received by hog producers in fiscal 1984, by the total dressed-weight equivalent of all hogs marketed in fiscal year 1984, we calculated a subsidy rate of Can\$0.000001/lb. dressed-weight (Can\$0.0000004/lb. live-weight).

8. Prince Edward Island Hog Marketing and Transportation Subsidies

The Prince Edward Island Department of Agriculture and Marketing provides a grant to the packer in Charlottetown to defray the cost of hog processing and transport. In addition, they provide a grant to producers in the western part of the province to equalize the opportunity cost of producing hogs in distant parts of the province.

Inasmuch as these benefits are both a regional subsidy within the province and limited to a specific enterprise or industry, or group of enterprises or industries, we find them to be countervailable. Dividing the amount of the grants by the total dressed-weight equivalent of all hogs marketed in fiscal 1984, we calculated a benefit of Can\$0.00007/lb. dressed-weight (Can\$0.00006/lb. live-weight).

9. Prince Edward Island Swine Development Program

The Department of Agriculture and Marketing pays each farmer a specified amount of money for each boar or gilt that meets specific quality standards and is sold as breeding stock. Because this grant is limited to a specific enterprise or industry, or group of enterprises or industries, we find it to be countervailable. Dividing the amount of the grants by the total dressed-weight equivalent of all hogs marketed in fiscal 1984, we calculated a benefit of Can\$0.00002/lb. dressed-weight (Can\$0.00002/lb. live-weight).

10. Prince Edward Island Interest Payments on Assembly Yard Loan

The provincial Department of Agriculture and Marketing assumed the interest on a loan to the pork producers, granted for the purpose of constructing a hog assembly yard. The interest payments assumed by the province need never be repaid by the producers. Because the grant was limited to a specific enterprise or industry, or group of enterprises or industries, we find it to be countervailable. We treated the net

interest payment due in fiscal year 1984 as a grant and expensed it in the year of receipt. Dividing the amount of the grant by the total dressed-weight equivalent of all hogs marketed in fiscal 1984, we calculated a benefit of Can\$0.0000004/lb. dressed-weight (Can\$0.0000003/lb. live-weight).

11. Québec Meat Sector Rationalization Program

Between 1975 and 1978, the Québec Ministry of Agriculture, Fisheries and Food instituted the Meat Sector Rationalization Program. The purposes of the program are: (1) To encourage the development of the Québec meat sector, (2) to ensure Québec producers with viable, sustained outlets for their production, (3) to provide the industry with a competitive advantage, and (4) to direct businesses to new markets.

Under this program the Québec Ministry of Agriculture, Fisheries and Food provides technical assistance and grants for the establishment, standardization, expansion, or modernization of slaughterhouses, processing plants, or plants preparing foods containing meat. All businesses operating or wishing to operate such a facility were qualified to participate in this program.

Because benefits under this program are limited to the meat sector, we determine that they are limited to a specific enterprise or industry, or group of enterprises or industries, and are therefore countervailable. The Government of Québec has reported that three packers currently in operation have received benefits under this program. Dividing the grants received during the period of investigation by the dressed-weight equivalent of all hogs marketed in fiscal year 1984, we calculated a subsidy rate of Can\$0.00005/lb. dressed-weight (Can\$0.00004/lb. live-weight).

12. Québec Special Credits for Hog Producers

Under the terms of the "Loi favorisant un crédit spécial pour les producteurs agricoles au cours de périodes critiques," agricultural producers in Québec may become eligible for low-interest loans, or interest subsidies, during "critical periods." Critical periods are defined as (1) natural disasters which create an emergency (e.g., excessive rain, landslides), (2) an unexpected uncontrollable drop in prices, or (3) the disappearance of a designated level of production in a designated region for reasons beyond the control of producers. Pursuant to the law, two special regulations covering

hogs were implemented in June of 1980 and 1981 to cover shortfalls arising from the discrepancy between selling prices and costs of production.

Because these are special programs, enacted by regulation only when the government decides that a particular commodity group is in need of special assistance, we determine that these programs are limited to a specific enterprise or industry or group of enterprises or industries, and are countervailable. The government of Québec reported that it stopped giving interest subsidies to pork producers on March 1, 1983. However, delayed payments were made during fiscal years 1984 (ending March 31, 1984) and 1985 (ending March 31, 1985), and we do not know whether any other delayed payments will be made. In order to calculate the benefit, we are using, as best information available, the total interest subsidy paid in fiscal 1984 (\$130,631) as representing the benefit to hog producers. Dividing this amount by the dressed-weight equivalent of all hogs marketed in fiscal year 1984, we calculated a subsidy rate of Can\$0.00005/lb. dressed-weight (Can\$0.00004/lb. live-weight).

13. Saskatchewan Financial Assistance for Livestock and Irrigation

Under this program, low-interest long-term loans, grants, and loan guarantees are made available to farmers for the acquisition and production of livestock, including swine, and to finance irrigation of farmland. Under the grant component of this program, borrowers were also given conditional grants of up to Can\$6,000, with Can\$500 of this amount being forgiven in each year in which the borrower remains in production. A borrower who ceases production before the full amount is forgiven must repay the outstanding balance. Most of these loans, grants, and guarantees are made for purposes related to the acquisition and production of livestock. Consequently, we determine that benefits under these programs are limited to a specific enterprise or industry, or group of enterprises or industries, and are countervailable.

The long-term loans are made at interest rates which are preferential. We calculated the benefit conferred by these loans in accordance with our long-term loan methodology. For the benchmark interest rates, we used a weighted average of the interest rates for long-term loans given by commercial banks and the Farm Credit Corporation, the major lenders to agriculture in Canada.

In calculating the benefit for the grant portion of this program, we treated the total amount of the conditional grants not yet forgiven as one-year, interest-free loans, using our short-term loan methodology. We treated the amounts which were forgiven during fiscal year 1984 as grants expensed in the year of receipt.

We calculated the benefit from loan guarantees by assuming, as best information available, that hog producers received the same proportion of all guarantees extended as they did of loans. Because these guarantees are made free of charge, the benefit is equal to what comparable commercial guarantees would have cost.

Dividing the benefits from the loans, grants, and guarantees by the dressed-weight equivalent of all hogs marketed in fiscal 1984, we calculated a subsidy rate of Can\$0.00045/lb. dressed-weight (Can\$0.00036/lb. live-weight).

II. Programs Determined Not To Confer Subsidies

We determine that subsidies are not being provided to producers or exporters in Canada of live swine and fresh, chilled and frozen pork products under the following programs:

A. Federal Programs

1. Financing Programs

(a) *Farm Credit Act*.—Canada's Farm Credit Act of 1959 provides long-term loans to individual farmers, farming corporations, and cooperative farm associations for the acquisition of farm land and for a broad array of agricultural operations. The program is administered by the Farm Credit Corporation.

Loans are for a maximum term of thirty years and must be secured. With two exceptions, these loans are made at a fixed annual rate of interest which is 1 percent above base rate. This base rate is the same as the yield on government of Canada bonds with maturities of five to ten years. The exceptions to the above are (1) loans which were approved between October 18, 1979, and March 31, 1980, at a fixed rate of 12 percent per annum, and (2) a special provision for interest rates on loans approved on or after November 15, 1968, part of the proceeds of which are used to repay prior loans under this program.

(b) *Farm Syndicates Credit Act*.—The Farm Syndicates Credit Act provides long-term loans to farming corporations, cooperative farm associations and other farm associations for the purchase or improvement of farm buildings and land, and for the acquisition of farm

machinery. The program is administered by the Farm Credit Corporation.

Loans are made for up to Can\$100,000 on terms which vary according to the use of the proceeds. Interest rates are prescribed by the Farm Credit Corporation and are set at levels which cover the Corporation's cost of money and its administrative expenses.

(c) *Special Farm Assistance Programs*.—Under this program, long-term loans were available to distressed farming enterprises.

The program ended on June 28, 1984.

Summary of Federal Financing Programs

The enabling federal legislation indicates, and we have verified, that financing under these Federal plans is available without restriction to the producers of any agricultural product in Canada. Because the programs do not designate specific products for receipt of financing or establish differing terms for specified products, we determine that the Federal financing programs for agriculture are available to more than a specific enterprise or industry, or group of enterprises or industries, and hence are not countervailable. See the *Final Negative Countervailing Duty Determination: Fresh Cut Flowers from Mexico* (49 FR 15007).

2. Federal Hog Carcass Grading System

Hog carcasses in Canada are graded under the Hog Carcass Grading Regulations, pursuant to the federal Livestock Grading Program and the Canada Agricultural Products Standards Act. Hog carcasses receive an index number, based on their backfat in relation to weight. This grading system provides nationally uniform standards for trade in live swine. The cost of the hog market grading program is borne by the federal government.

Provision by the government of this type of service is as beneficial to consumers as to producers; i.e., consumers get a better quality product, and producers receive higher returns for their commodities. At least where, as here, numerous agricultural products are similarly graded and for all such products the government bears the full cost, we cannot say that the practice is one which is countervailable, because the program is available to more than a specific enterprise or industry, or group of enterprises or industries.

Provincial Programs

1. Grant Programs in Québec

(a) *Grants under the Act to Promote the Development of Agricultural Operations*.—Under the Act to Promote the Development of Agricultural

Operations, grants are provided to assist farmers in carrying out improvements on their farms.

(b) *Grants to Provincial Pork Packers under the Québec Industrial Assistance Act (IAA)*.—Pursuant to the IAA, the Société de développement industriel du Québec (SDI) was established in 1971 to promote economic development in Québec by providing financial incentives. Through it, the government of Québec may make low-interest loans, grants, loan guarantees, and may purchase shares in manufacturing and commercial operations. Two pork packers received grants from SDI.

The Québec grant programs do not designate specific products for receipt of funding nor establish differing terms for specified products. We have verified that producers in a wide range of industries in all regions in Québec have participated in these programs. Therefore, we determine that these Québec grant programs are available to more than a specific enterprise or industry, or group of enterprises or industries, and are not countervailable.

2. Financing Programs in Québec

(a) *Low-Interest Financing under an Act to Promote Long-Term Farm Credit by Private Institutions*.—The Office de crédit agricole du Québec (the Office) offers low-cost financing to agricultural producers who maintain profitable farms as their primary occupation and who demonstrate a need for such financing. The Act permits lenders to make variable-interest, low-cost long-term loans to borrowers so that the interest charged does not exceed the prime rate plus ½ percent.

In addition, twice a year the Office reimburses a part of the interest, equal to half the difference between 4 percent and the interest charged, to the borrower. On loans granted before November 23, 1983, the Office returns to the producer the portion of the interest exceeding 2½ percent on the first Can\$15,000 and the portion exceeding 8 percent on the next Can\$135,000 (Can\$185,000 for group operations).

(b) *Low-Interest Financing under the Farm Credit Act*.—Under the Farm Credit Act, the Office can make long-term loans on terms similar to those in the Act to Promote Long-Term Farm Credit by Private Institutions. The interest charged is 2.5 percent on the first Can\$15,000 and 8 percent on the remaining amount up to Can\$150,000 (or Can\$200,000 for group operations). Since August 1, 1978, the Office has ceased making loans although it may, under exceptional circumstances, make loans when private lenders are unable to do so. In addition, the Fonds d'assurances-

prêts agricoles et forestiers guarantees loans and lines of credit extended to farmers by private institutions under the Farm Credit Act even though these loans carry no interest subsidy.

(c) *Low-Interest Guaranteed Loans under an Act to Promote Farm Improvement*.—The Office guarantees medium-term loans of up to Can\$200,000, at a variable interest rate that may not exceed the prime rate plus ½ percent. Twice a year the Office reimburses borrowers a portion of the interest equal to 3 percent of loans on the first Can\$15,000. All farmers qualify who maintain profitable farms as their primary occupation, and who demonstrate a need for such financing.

(d) *Interest-Free Loans under the Act to Promote the Establishment of Young Farmers*.—The Act to Promote the Establishment of Young Farmers was promulgated on September 1, 1982. It permits newly established farmers between the ages of 18 and 49 to receive interest subsidies equal to the net interest payable for five years on the first Can\$50,000 of a loan.

(e) *Low-Interest Mortgages under the Farm Loan Act*.—The Farm Act permits the Office to reimburse a portion of the interest on the first Can\$15,000 of a mortgage granted by the Farm Credit Corporation of Canada. The Office will reimburse one half of the difference between 4 percent and the rate charged by the Office. On loans granted by the Farm Credit Corporation of Canada (FCC) before November 21, 1981, the Office reimburses the difference between 2½ percent and the rate charged by the FCC on these loans.

(f) *Short-term Loans*.—The Office, in accordance with the "Loi favorisant le crédit à la production agricole," offers short-term loans to producers of agricultural products.

The Québec financing programs do not designate specific products for receipt of funding, nor establish differing terms for specified products. We have verified that producers of a wide range of commodities in all regions in Québec have received benefits from these programs. Therefore, we determine that the Québec financing programs for agriculture are available to more than a specific enterprise or industry, or group of enterprises or industries, and hence are not countervailable.

3. Financing Programs in Ontario

(a) *Ontario Farm Adjustment Assistance Program (OFAAP)*.—This program, along with its companion OLAP (Operating Loan Assistance Program) was instituted in 1982 pursuant to section 5 and 6 of the Ontario Agriculture and Food Act. Under

OFAAP, the following benefits are provided to Ontario farmers—deferral of interest for 6 months; interest reduction grants of up to 5 percentage points reducing interest to not less than 12 percent; and guaranteed new lines of operating credit. Under OLAP, production and financial management counseling, as well as financial assistance, are provided to Ontario farmers. Where insufficient security exists to obtain the necessary amount of operating loan, the government will complement existing security with a guarantee to the lending bank; the bank will extend the funds at no more than the prime rate plus 1 percent, and the guarantee may last up to 12 months.

(b) *Ontario Beginning Farmer Assistance Program*.—This program was instituted on January 1, 1983, pursuant to section 5 of the Agriculture and Food Act. This program provides a rebate of interest charges on loans (up to Can\$350,000) from approved lenders to a maximum rebate of 5 percent points, based on the difference between the Farm Credit Corporation rate at the time of entry and 8 percent. Assistance is available to all beginning farmers in Ontario, defined as those who have never owned a viable farm or have never spent a majority of their time or earned a majority of their income from farming assets over which they have had control.

(c) *Ontario Young-Farmer Credit Program*.—This program was instituted in 1975 pursuant to section 5(a) of the Agriculture and Food Act. All young farmers in Ontario who can demonstrate, through a production plan, that they have sufficient experience and ability to conduct a farming operation are eligible for this program. The borrower must be unable to obtain credit through usual lending sources. Assistance comes in the form of lender-guaranteed loans for terms up to 10 years from chartered banks and designated credit agencies at an interest rate not exceeding prime plus 1 percent. These loans are guaranteed by the Ontario Treasury.

These Ontario financing programs do not designate specific products for receipt of funding nor establish differing terms for specified products, or for products grown in specified regions of Ontario. We have verified that producers of a wide range of commodities in all regions in Ontario have received benefits from these programs. Therefore, we determine that these financing programs for agriculture are available to more than a specific industry or enterprises, or group of

industries or enterprises, and hence are not countervailable.

4. New Brunswick Financing Provided Under the Farm Adjustment Act of 1980

In our preliminary notice, we described programs under the Farm Adjustment Acts of 1980 and 1984. During verification we learned that there is actually only one Farm Adjustment Act; the program described as the Farm Adjustment Act of 1984 is simply the most recent regulations under the Act.

The Farm Adjustment Board, created by the Farm Adjustment Act, was established primarily to make loans and loan guarantees for farming operations. The Board also operates a land lease-purchase program. These financing programs are available to and are received by all sectors of agriculture in New Brunswick. Because the programs do not designate specific products for receipt of funding or establish differing terms for specified products, we determine that the New Brunswick financing programs for agriculture are available to more than a specific enterprise or industry, or group of enterprises or industries, and hence are not countervailable.

5. Newfoundland Loans Provided Under the Farm Development Loan Act

During our verification, we found that farmers are eligible for loans at preferential interest rates from the Farm Development Loan Board. This board was established under the Farm Development Loan Act of 1953 to help new farmers establish productive farms, to assist established farmers in expanding or modernizing their farms, and to help those involved in part-time farming operations. The interest rate on Farm Development loans is set at three percent below the prime rate. These loans were available to and were received by all sectors of agriculture in Newfoundland.

Because loans provided under the Farm Development Loan Act are not limited to specific products and there are not differing terms for specific products, we determine that these loans are not limited to a specific enterprise or industry, or group of enterprises or industries, and hence are not countervailable.

6. Nova Scotia Farm Loan Board Programs

The Nova Scotia Farm Loan Board administers a variety of programs to assist entry into agriculture and to help farmers acquire and develop farms. They are: Low-interest loans, interest subsidies, interest forgiveness, and subsidized land leasing and purchase

agreements. These programs do not designate specific products for receipt of funding or establish differing terms for specified products. We have verified that producers of a wide range of commodities in all regions in Nova Scotia have received benefits from these programs. Therefore, we determine that the Nova Scotia financing programs for agriculture are available to more than a specific enterprise or industry, or group of enterprises or industries and hence are not countervailable.

7. Prince Edward Island Lending Authority Long- and Short-term Loans

The Prince Edward Island Lending Authority provides long- and short-term agricultural loans for operating credit, livestock, capital equipment and farmland purchases, recapitalization of debt, and land improvement. In addition, the lending authority provides loans to fisheries, tourism and small businesses. The programs do not designate specific recipients of funding or establish differing terms for specified products. We have verified that producers in a wide range of industries in all regions in Prince Edward Island have received benefits from these programs. Therefore, we determine that these programs are available to more than a specific enterprise or industry, or group of enterprises or industries and hence are not countervailable.

8. Alberta Agricultural Development Corporation Low-Interest Loans and Loan Guarantees

The Agricultural Development Corporation provides low-interest loans and loan guarantees to farming operations, including hog producers. The programs do not designate the producers of specific products for receipt of funding or establish differing terms for specified products. We have verified that producers of a wide range of commodities in all regions in Alberta have received benefits from these programs. We determine that the Alberta financing programs for agriculture are available to more than a specific enterprise or industry, or group of enterprises or industries and hence are not countervailable.

9. Financing Programs in British Columbia

(a) *Low-Interest Loans and Loan Guarantees by the British Columbia Ministry of Agriculture and Food*—Under British Columbia's Agricultural Credit Act, low-interest loans and loan guarantees are provided to eligible farmers. The program does not designate the producers of specific products for receipt of funding or

establish differing terms for specified products.

(b) *Partial Interest Reimbursement*—This program operates to reimburse farmers in British Columbia for part of the interest on loans. It does not designate the producers of specific products for the receipt of interest reimbursements or establish differing terms for specified products.

These British Columbia financing programs do not designate specific products for receipt of funding nor establish differing terms for specified products. We have verified that producers of a wide range of commodities in all regions in British Columbia have received benefits from these programs. Therefore, we determine that these programs are available to more than a specific industry or enterprises, or group of industries or enterprises, and hence are not countervailable.

10. Manitoba Agricultural Credit Corporation Loans and Loan Guarantees

The government of Manitoba, through the Manitoba Agricultural Credit Corporation, provides loans and loan guarantees to farmers. These forms of financial assistance are available to all agricultural producers, and the terms do not vary according to the commodity produced. We have verified that producers of a wide range of commodities in all regions in Manitoba have received benefits from these programs. Therefore, we find that this program is available to more than a specific enterprise or industry, or group of enterprises or industries and is not countervailable.

11. Saskatchewan Economic Development Corporation (SEDCO) Financial Assistance

SEDCO provides various types of financial assistance to further the development in Saskatchewan of industry in general, and of specialized agricultural, horticultural, and livestock operations. At verification, we learned that a pork packer in Saskatchewan had received a long-term loan from SEDCO, for which principal is still outstanding. Because this loan was made on terms that were not inconsistent with commercial considerations, we determine that no countervailable benefits has been bestowed by this program.

III. Programs Determined Not To Be Used

We determine that producers or exporters in Canada of live swine and

fresh, chilled and frozen pork products did not use the following programs:

A. Ontario Red Meat Plan

Under this program, various grants and services are provided by Ontario's Ministry of Agriculture and Food to producers of beef and sheep. Benefits are not available to producers or exporters of live swine and fresh, chilled and frozen pork products.

B. Ontario Swine Sales Assistance Policy

This program is designed to promote the distribution within Ontario of purebred animals of superior quality. Grants of Can\$2.50 per animal, to a maximum of Can\$100 per sale are made to Breeders' Clubs. These grants are to assist in defraying the costs of conducting consignment sales. No payments were made under this program since 1982.

C. New Brunswick Swine Industry Restructuring Program

This program was created under the Swine Industry Restructuring Regulation, a regulation pursuant to the Farm Adjustment Act. The program was established to help hog producers with large debt loads to restructure that debt load so that the debt could be repaid and the farmer could remain in business. Hog farmers are allowed to set aside all debt from provincial and federal farm loans that exceed a standard debt load of Can\$18.50 per hog. The amount set aside does not have to be repaid until the standard debt load is repaid and does not accrue interest until that time. Because the government established this program in April 1985, we are unable to measure the potential benefit from the program. We will analyze any potential benefits resulting from this program during an administrative review under section 751 of the Act, if one is requested.

D. Saskatchewan Livestock Investment Tax Credit

Saskatchewan's 1984 Livestock Tax Credit Act provides a tax credit of Can\$3.00 per hog for hogs slaughtered between March 22, 1984, and December 31, 1986. Producers and other eligible claimants must own the hogs for a minimum feeding period of 60 days and either slaughter them themselves or market them for immediate slaughter. There is a Can\$100 deduction from the credit in each year in which this tax credit is claimed. Any unused portion of the tax credit may be carried forward by the claimant for up to seven years after the year in which not used. These tax credits were not available until the 1984 tax year, and returns will be filed no

earlier than 1985. Following our practice of attributing benefits provided under tax programs to the year in which the tax returns are filed, we determine that benefits under this program were not received during the period for which we have measured subsidization.

IV. Programs To Be Terminated

A. Alberta Pork Producers' Market Insurance Program (PPMIP)

Under the authority of the Department of Agriculture Act, this stabilization program was in place from July 1, 1981 through September 30, 1984. Hog producers in Alberta were assured a specified level of return over certain production costs. Support levels were adjusted quarterly to reflect fluctuations in the cost components of hog production. Support payments were calculated weekly, and paid monthly based on the difference between the support level and weekly average market price. The program was funded by grants from the Government of Alberta, by loans secured by the provincial government and by producer premiums.

In our preliminary determination, we recognized that stabilization plans similar to this one may have also been available with respect to other commodities in Alberta. However, because information was not provided on (1) the other commodities receiving stabilization payments, (2) the value of these payments, or (3) the mechanism by which those payments were determined, we found that benefits under this stabilization program were limited to a specific industry, and were countervailable. We based the subsidy rate for this program on the Government of Alberta's share of the payments made to producers during fiscal year 1984.

This program was to have ended on March 31, 1985. However, subsequent to our preliminary determination, we verified that this program had been terminated on September 30, 1984, and that no payments under this program had been made since the end of 1984. Entries into the United States made after our original suspension of liquidation will not receive benefits under this program.

B. Ontario Weaner Pig Stabilization Plan

Pursuant to the Farm Income Stabilization Act (FISA), the Government of Ontario operated a weaner pig stabilization program from April 1, 1980, through March 31, 1985. The intent of the program was to provide producers of weaner pigs with support payments in any production

period in which the average market price for that period fell below a certain support price. The market and support prices were based on data used by the Federal government for its ASA slaughter hog program. Participation in the Ontario program was voluntary and funding for the program was provided by the provincial government and the participating producers in the ratio of 2 to 1.

In our preliminary determination, we recognized the fact that stabilization plans similar to this one may have also been available with respect to other commodities in Ontario. However, because information was not provided on (1) the other commodities receiving stabilization payments, (2) the value of these payments, or (3) the mechanism by which those payments were determined, we found that benefits under the weaner pig stabilization program were limited to a specific industry, and were countervailable. We based the subsidy rate for this program on the Government of Ontario's share of the payments made to producers during fiscal year 1984.

We verified that this program had been statutorily terminated on March 31, 1985, and that no payments under this program have been made since mid-1984. Entries into the United States made after our original suspension of liquidation will not receive benefits under this program.

V. Program Determined Not To Exist

A. Proposed Tripartite Red Meat Stabilization Program

A proposal exists for the introduction of stabilization programs for five sectors of red meat production in Canada, including one for hog producers. These would provide national uniformity in support levels within each sector and would replace the existing federal and provincial programs. Legislation on this matter is pending, and thus the program has yet to be implemented. Accordingly, we determine that this program does not yet exist, but we will re-examine its status in a 751 administrative review, if one is requested.

Respondents' Comments

1. The Canadian Meat Council argues that section 613 of the Trade and Tariff Act of 1984, the upstream subsidies provision, governs the analysis of subsidies on all input products. The Meat Council maintains that the Department erred when it concluded in its preliminary determination that live swine are not an input product into pork products, and that if section 613 had been applied, we would find that no

competitive benefit is bestowed on pork products as a result of benefits provided to producers of live swine. It contends that the factors cited by the Department in support of its preliminary finding—an absence of substantial transformation, the continuous line of production, the single end product, and the definition of industry by the ITC, appear nowhere in section 613 or its legislative history. The Meat Council further contends that, while the competitive benefit test of section 613 is conclusive, economic analysis will also demonstrate that payments to Canadian swine growers confer no benefit on pork packers.

DOC Position

We disagree. See the section of this notice entitled "Upstream Issue".

2. The Canadian Pork Council contends that federal and provincial stabilization payments are part of a nationwide fabric of programs covering farm products and are not countervailable because they are not limited to a specific enterprise or industry, or group of enterprises or industries. Following the same reasoning, they also argue that benefits provided under the Swine Record of Performance Program and the Hog Carcass Grading System are not countervailable.

DOC Position

We have determined that the Hog Carcass Grading System is not, and the federal and provincial stabilization programs and the Swine Record of Performance Program are, countervailable. See the discussion for each program, and particularly that for the federal stabilization program, in the "Programs Determined to Confer Subsidies" section of this notice.

3. The Canadian Pork Council, citing the *Final Affirmative Countervailing Duty Determination: Certain Textile Mill Products and Apparel from Peru* (50 FR 9871), maintains that the Department's final determination should be based on the most recent verified information, and accordingly should take into account the terminations of the Alberta and Ontario hog stabilization programs, and the announcement by the federal government that there will be no ASA payments made on hogs marketed in fiscal year 1985.

DOC Position

We recognize the termination of the Ontario and Alberta stabilization programs, and have adjusted the bonding rate accordingly. With regard to the federal stabilization program, the announcement that hogs marketed in fiscal year 1985 will not be eligible for

payments was made on May 2, 1985, well after the Department's preliminary determination and after the verification of the federal programs was completed. It has long been the Department's policy not to account for program changes after a preliminary determination. Also, the suspension of payments has not been verified. This treatment is consistent with our final determination in *Certain Textile Mill Products and Apparel from Peru*.

There are two other factors weighing in our decision not to reduce the bonding rate attributable to this program. Due to the open-ended time frame for receiving applications, we cannot be sure that the agricultural Stabilization Board will not still be making payments this year on 1984 hog marketings. Furthermore, it is unclear what effect a proposed amendment to the Agricultural Stabilization Act will have on the time periods for which stabilization determinations are made.

4. The Canadian Pork Council suggests that the Department treat government contributions to the various provincial stabilization funds as the measure of any subsidy, and not the governments' shares of any stabilization payments paid to the producers of live swine. The Pork Council also contends that the stabilization funds are actually insurance funds operating on an actuarially sound basis.

DOC Position

We disagree. We measure the value of a subsidy using the "cash flow" approach; i.e., we find that a benefit is bestowed when the producer or enterprise actually receives a government payment. If we were to follow respondent's approach, the situation might arise where we would countervail government contributions into a stabilization fund even during periods when no payments were made to the producers of live swine. Regarding its contention that stabilization funds are really insurance funds operating on actuarially sound bases, we have seen no evidence of that.

5. The Canadian Meat Council contends that the National Pork Producers Council lacks standing to petition with respect to fresh, chilled and frozen pork products. The request of Wilson Foods to join as co-petitioner should be denied, and the Department should recognize that the expression of support for the petition by other packers is insufficient to establish standing.

DOC Position

We disagree. See the discussion under the section of this notice entitled "Standing of Petitioners".

6. Both the Canadian Pork Council and the Canadian Meat Council argue that the Department relied upon an incorrect dressed weight factor when converting the total number of hogs marketed to a dressed weight equivalent. They claim that the correct dressed weight factor is 0.79-0.80, rather than the 0.71 factor used for the preliminary determination. The Canadian Meat Council further argues that approximately 95 percent of the total weight of live hog is used for some commercial purpose and, therefore, a more appropriate conversion factor of 0.95 should be used.

DOC Position

At the time of the preliminary determination, we believed that 0.71 represented the factor used in Canada to convert a hog's live weight to a dressed-weight equivalent. We subsequently learned that that factor represented the conversion factor used by the domestic U.S. industry. We now have verified information, obtained from the Canadian federal and provincial governments, indicating that the actual factor used ranges from 0.79-0.80. Therefore, for purposes of this final determination, we are using a factor of 0.795.

We disagree with the Canadian meat Council's argument that a more appropriate factor of 0.95 should be used. Live swine are raised for the primary purpose of producing pork meat. Any commercial value resulting from the by-products is secondary to the production of pork meat. In fact, information from the U.S. Department of Agriculture indicates that the commercial value of the by-products is approximately 5 percent of the value of the hog. In our *Preliminary Affirmative Countervailing Duty Determination: Lamb Meat from New Zealand* (46 FR 58128), we examined benefits on lamb production without making any adjustment for the commercial value of by-products. In that case, the commercial value of the by-products was even higher than in the case of swine. We have followed that precedent in this case.

7. The Canadian Pork Council contends that when converting the total number of hogs marketed to a dressed weight equivalent, the Department should not use a live weight of 243 pounds as it did in its preliminary determination, but instead use a live weight of 248 pounds (represented by U.S. import statistics as the average weight of all hogs imported from Canada in 1984).

DOC Position

We disagree. See our response to Petitioners' comment 2.

Petitioners' Comments

1. Petitioners argue that the subsidy rate for live swine should be stated on a per hog basis and should thus be calculated by dividing the total amount of subsidies paid by the number of hogs marketed during the period for which subsidization has been measured.

DOC Position

We disagree. We use the *Tariff Schedules of the United States Annotated* (TSUSA) as a guide when determining whether to base a subsidy or bonding rate on an *ad valorem*, per pound, per animal, or other basis. In the case of live swine, the TSUSA indicates a rate of duty on a per pound basis. We have no reason to deviate from the standard set out in the TSUSA.

2. Petitioners argue that the subsidy rate calculation for pork products should be based on an average live weight of 217 pounds (represented by Canadian government statistics as the average weight of slaughter hogs marketed), and a dressed-weight factor of 0.52. They contend that primal cuts represent the most commercially significant pork products exported to the United States and account for 52 percent of the weight of live hog.

DOC Position

With respect to petitioners' contention that the Department use a live weight of 217 pounds, we agree. This information is based on official Canadian government statistics and has been verified. However, we disagree with their argument that the Department use a factor converting total live weight to primal cuts. It may be true that the majority of exports from Canada may enter the United States in the form of primal cuts. However, because we are looking at domestic subsidies, we must allocate benefits over the total domestic production using a factor that accurately reflects the conversion from live- to dressed-weight for all products, and not just those exported to the United States. Accordingly, we are using a factor of 0.795.

Verification

In accordance with section 776(a) of the Act, we verified the information used in making our final determination. Commerce officials spent from April 1 to May 7, 1985, verifying the information submitted by the Canadian federal and provincial governments, and gathering additional information to be used in this determination. During this verification,

we followed normal verification procedures including inspection of documents and ledgers, and tracing the information in the response to source documents, accounting ledgers, and to financial statements.

Suspension of Liquidation

In accordance with section 703(d) of the Act, on April 3, 1985, we instructed the U.S. Customs Service to suspend liquidation of all entries of live swine and fresh, chilled and frozen pork products from Canada (50 FR 13264). As of the date of publication of this notice in the *Federal Register*, the liquidation of all entries, or withdrawals from warehouse, for consumption of this merchandise will continue to be suspended and the Customs Service shall require a cash deposit or bond for each such entry of this merchandise as follows:

| All producers and exporters | Bonding rate |
|--|-------------------|
| Live Weight (Live Swine) | Can \$0.04390/lb. |
| Dressed Weight (Fresh, Chilled and Frozen Pork Products) | Can \$0.05523/lb. |

This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry 45 days of the publication of this notice.

If the ITC determines that material injury or the threat of material injury does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue a countervailing duty order, directing Customs officers to assess a countervailing duty on live swine and fresh, chilled and frozen pork products from Canada entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the net subsidy

amount indicated in the "Suspension of Liquidation" section of this notice.

This notice is published pursuant to section 703(f) of the Act (19 U.S.C. 1671(f)).

William T. Archey,

Acting Assistant Secretary for Trade Administration.

June 10, 1985.

[FR Doc. 85-14400 Filed 6-14-85; 8:45 am]

BILLING CODE 3510-05-M

National Oceanic and Atmospheric Administration

Deep Seabed Mining; Proposed Revision of Exploration License

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of receipt of application by Ocean Minerals Company to revise Exploration Plan incorporated into exploration license issued August 29, 1984 and request for comments.

SUMMARY: On May 30, 1985, the Ocean Minerals Company (OMCO), 465 Bernardo Avenue, Mountain View, California 94043, submitted to the National Oceanic and Atmospheric Administration (NOAA) a proposal to change the exploration plan incorporated into the deep seabed mining exploration license issued to OMCO by NOAA on August 29, 1984 pursuant to the Deep Seabed Hard Mineral Resources Act and 15 CFR Part 970. NOAA has determined that this proposal constitutes an application for revision of the license under 15 CFR 970.513. In essence, OMCO proposes two principal changes in the exploration plan. First, additional at-sea survey cruises planned during the first five years of the license period are eliminated. OMCO proposes instead to use resource data acquired through an industry conflict resolution agreement and to augment these data, as necessary, by limited ship of opportunity cruises. Second, at-sea testing of new survey systems is postponed from the first five years of the license period to the second five years of the period and the use of a dedicated ship for at-sea surveys is delayed no more than one year. No change is proposed in the objective of filing for a deep seabed mining commercial recovery permit within the 10-year license period. Subject to 15 CFR 970.902, which excludes confidential information from public disclosure, interested persons will be permitted to examine the

application for revision and to provide comments by August 16, 1985.

These documents may be examined in the Page 1 Building, Room 105, 2001 Wisconsin Avenue NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

M. Karl Jugel or John W. Padan, Ocean Minerals and Energy Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, Page 1 Building, Room 105, 2001 Wisconsin Avenue NW., Washington, D.C. 20235, (202) 653-8257.

Dated: June 11, 1985.

James P. Blizzard,

Acting Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 85-14423 Filed 6-14-85; 8:45 am]

BILLING CODE 3510-12-M

Marine Mammals; Issuance of Permit: Sea World, Inc.

On April 17, 1985, notice was published in the *Federal Register* (50 FR 15214) that an application had been filed by Sea World, Inc., 1720 South Shores Road, San Diego, California 92109, for a permit to import six (6) false killer whales for the purpose of public display.

Notice is hereby given that on June 6, 1985, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above importation subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries,
National Marine Fisheries Service,
3300 Whitehaven Street NW.,
Washington, D.C.;

Regional Director, Northeast Region,
National Marine Fisheries Service, 14
Elm Street, Federal Building,
Gloucester, Massachusetts 01930;

Regional Director, Southeast Region,
National Marine Fisheries Service,
9450 Koger Boulevard, St. Petersburg,
Florida 33702; and

Regional Director, Southwest Region,
National Marine Fisheries Service, 300
Ferry Street, Terminal Island,
California 90731.

Dated: June 12, 1985.

Richard B. Roe,

Director, Office of Protected Species and
Habitat Conservation, National Marine
Fisheries Service.

[FR Doc. 85-14502 Filed 6-14-85; 8:45 am]

BILLING CODE 3510-22-M

**COMMITTEE FOR THE
IMPLEMENTATION OF TEXTILE
AGREEMENTS**

**Adjusting the Import Restraint Limits
for Certain Cotton Textile Products
Produced or Manufactured in India**

June 12, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on June 18, 1985. For further information contact Diana Solkoff, International Trade Specialist (202) 377-4212.

Background

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 21, 1982, as amended, between the Governments of the United States and India includes provision for, among other things, the borrowing of yardage from the succeeding year's limit (carryforward) with the amount used being deducted from the category limit in the succeeding year. Under the terms of the bilateral agreement and at the request of the Government of India, carryforward is being applied to the import limits established for cotton textile products in Categories 337 (playsuits), 338/339/340 (shirts and blouses), 341 (women's, girls' and infants' woven blouses), and 347/348 (trousers).

SUPPLEMENTARY INFORMATION: On December 27, 1984, a letter was published in the *Federal Register* (49 FR 50236) from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established restraint limits, among other categories, for Categories 337, 338/339/340, 341, and 347/348, produced or manufactured in India and exported to the United States during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985. In accordance with the terms of the bilateral agreement and at the request of the Government of India, the United States Government has agreed to increase the limits for cotton textile products in the foregoing categories. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of

Customs to increase the levels to the designated amounts.

Ronald I. Levin,

Acting Chairman, Committee for the
Implementation of Textile Agreements.

June 12, 1985.

**Committee for the Implementation of Textile
Agreements**

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: On December 21, 1984, the Chairman, Committee for the Implementation of Textile Agreement, directed you to prohibit entry of cotton, wool and man-made fiber textile products exported during the twelve-month period beginning on January 1, 1985 and extending through December 31, 1985, produced or manufactured in India, in excess of designated limits. The Chairman further advised you that the limits are subject to adjustment.¹

Effective on June 18, 1985, paragraph 1 of the directive of December 21, 1984 is hereby further amended to include the following adjusted limits:

| Category | Adjusted 12-mo. limits ¹ (dozen) |
|-------------|--|
| 337 | 79,281 |
| 338/339/340 | 1,132,662 |
| 341 | 2,479,975 |
| 347/348 | 229,879 |

¹ The limits have not been adjusted to account for any imports exported after December 31, 1984.

The Committee for the Implementation of Textile Agreement has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the
Implementation of Textile Agreements.

[FR Doc. 85-14467 Filed 6-14-85; 8:45 am]

BILLING CODE 3510-DR-M

**Import Restraint Limits for Certain
Cotton, Wool and Man-Made Fiber
Textile Products Produced or
Manufactured in Mauritius Under a
New Bilateral Agreement**

June 12, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority

¹ The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 21, 1982, between the Governments of the United States and India which provide, in part, that: (1) Group and specific limits may be exceeded by designated percentages for swing, carryover and carryforward, and (2) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on June 20, 1985. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

On June 4, 1985, the Governments of the United States and Mauritius exchanged diplomatic notes on a new Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement extending through September 30, 1990. The new agreement establishes limits for cotton and man-made fiber knit shirts in Categories 338/339 and 638/639, produced or manufactured in Mauritius and exported during the period which began on March 1, 1984 and extends through September 30, 1985; for men's and boy's woven cotton shirts in Category 340, exported during the period which began on November 1, 1984 and extends through September 30, 1985; and for the knitwear group, including Categories 345 (cotton sweaters), 438 (wool knit shirts and blouses), 445 and 446 (wool sweaters) and 645 and 646 (man-made fiber sweaters), exported during the period which began on October 1, 1984 and extends through September 30, 1985. The letter published below to the Commissioner of Customs from the Chairman of CITA cancels and supersedes the directive of September 26, 1984 which established the previous control limits for the foregoing categories, and establishes the limits under the new agreement.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

Ronald L. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

June 12, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington,
D.C.

Dear Mr. Commissioner: Effective on June 20, 1985, this directive cancels and

supersedes the directive of September 26, 1984 which directed you to prohibit entry of certain cotton, wool and man-made fiber textile products, produced or manufactured in Mauritius.

Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 4, 1985 between the Governments of the United States and Mauritius; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on June 20, 1985, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, and man-made fiber textile products in Categories 338/339, 340, 638/639 and Categories 345, 438, 445, 446, 645 and 646, as a group, produced or manufactured in Mauritius and exported during the following periods, in excess of the indicated limits:

| Category | Re- straint limit ¹ (dozen) | Period |
|------------------------------------|---|------------------------------|
| 338/339 | 116,667 | Mar. 1, 1985-Sept. 30, 1985. |
| 340 | 183,333 | Nov. 1, 1984-Sept. 30, 1985. |
| 638/639 | 134,167 | Mar. 1, 1985-Sept. 30, 1985. |
| 345, 438, 445, 446, 645 and 646 | 115,000 | Oct. 1, 1984-Sept. 30, 1985. |

¹ The restraint limits have not been adjusted to reflect any imports exported after February 28, 1985 (Categories 338/339 and 638/639); after September 30, 1984 (Categories 345, 438, 445, 446, 645 and 646, as a group), and after October 31, 1984 (Category 340).

Textile products in Categories 338/339 and 638/639 which have been exported to the United States between October 1, 1984 and February 28, 1985 shall be charged to the limit of 115,000 dozen established for Categories 345, 438, 445, 446, 645 and 646, as a group during that period.

The levels set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of June 4, 1985 between the Governments of the United States and Mauritius, which provide, in part, that (1) swing is available only between Categories 338/339 and 638/639; (2) the levels may be exceeded by not more than 10 percent for the combination of carryover and carryforward; and (3) the two governments agree to consult on any question arising in the implementation of the bilateral agreement. Any appropriate adjustments under the agreement, referred to above, will be made to you by letter.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption

to include entry for consumption into the Commonwealth of Puerto Rico.

The committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald L. Levin.

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-14469 Filed 6-14-85; 8:45 am]

BILLING CODE 3510-DR-M

Requesting Public Comment on Bilateral Consultations With the Government of the People's Republic of China Concerning Category 652 (Man-Made Fiber Underwear)

June 12, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on June 18, 1985. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

On May 30, 1985, pursuant to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China, the Government of the United States requested consultations concerning imports into the United States of man-made fiber underwear in Category 652, produced or manufactured in China and exported to the United States. A summary market disruption statement concerning this category follows this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

Anyone wishing to comment or provide data or information regarding the treatment of this category under the agreement with the People's Republic of

China, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in the category, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Pursuant to the terms of the bilateral agreement, the People's Republic of China is obligated under the consultation provision to limit its exports to the United States of this product during the ninety-day period which began on May 30, 1985 and extends through August 27, 1985 to 403,109 dozen.

The People's Republic of China is also obligated under the bilateral agreement, if no mutually satisfactory solution is reached during consultations, to limit its exports to the United States during the twelve months following the ninety-day consultation period to 1,235,609 dozen (August 28, 1985–August 27, 1986).

The United States Government has decided, pending a mutually satisfactory solution, to control imports of textile products in Category 652, exported during the ninety-day period at the level described above. The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the Federal Register.

In the event the limit established for Category 652 for the ninety-day period is exceeded, such excess amounts, if allowed to enter at the end of the restraint period, shall be charged to the

level (described above), defined in the agreement for the subsequent twelve-month period.

SUPPLEMENTARY INFORMATION: On December 28, 1984 a letter to the Commissioner of Customs was published in the Federal Register (49 FR 50432) from the Chairman of the Committee for the Implementation of Textile Agreements which established restraint limits for certain categories of cotton, wool and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during 1985. The notice document which preceded that letter referred to the consultation mechanism which applies to categories of textile products under the bilateral agreement, such as Category 652, which is not subject to a specific ceiling and for which a level may be established during the year. In the letter published below, pursuant to the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of apparel products in Category 652, produced or manufactured in the People's Republic of China and exported during the indicated ninety-day period, in excess of the designated level.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

China—Market Statement

Category 652—Man-made Fiber Underwear
May 1985.

Summary and Conclusions

Category 652—man-made fiber underwear—imports from China increased tenfold to 1,152,000 dozens during the year ending March 1985. China accounted for 38 percent of the growth in Category 652 imports from all sources during this period. Man-made fiber underwear imports from China reached 364,000 dozens in the first quarter of 1985. China surpassed Hong Kong—a restrained supplier—to become the second largest shipper of Category 652 to the U.S.

This is a sharp and substantial increase in imports which, if continued, creates a real risk of market disruption. In addition, these imports from China are entering a sector of the Category 652 market—the women's, girls' and infants underwear segment—in which imports create an even greater risk of disruption.

Production

Domestic Category 652 production declined by over 7 million dozens since 1980, decreasing from 66,157,000 dozens in 1980 to an estimated 59,000,000 dozens in 1984. Output levels in the later year will probably be lowest of this decade.

Women's, girls' and infants under—Category 652 pt.—production in the U.S. was down by about 4 million dozens during 1980 to 1984. This ten percent decline was offset in the market by a 4.5 million dozens increase in imports during this period. U.S. Category 652 pt. production is estimated at 38,500,000 dozens for 1984.

Industry sources indicate that this downward trend continued into 1985. Women's, girls' and infants' panties comprise about three-fourths of the Category 652 pt. output. Two major producers report nylon panty sales off in the first quarter of 1985 by 25 percent to 30 percent. In addition, a major producer of nylon tricot fibers for use in panties manufacturing experienced a 13 percent decline in fiber output during January–March 1985, with the year-ending March 1985 off 12 percent.

Imports

Man-made fiber underwear imports increased 150 percent since 1980 to reach 8,550,000 dozens. Coupled with a decline in domestic production, the import increase resulted in a near tripling of the import-to-production ratio from 5.1 percent in 1980 to 14.5 percent in 1984.

In Category 652 pt., import increased from 2,894,000 dozens in 1980 to 7,427,000 dozens in 1984. The import-to-production ratio for this part category was 19.3 percent in 1984, up from 6.8 percent in 1980.

U.S. Market

The domestic Category 652 market contracted by two million dozens from 1980 to 1984, to 87,550,000 dozens. U.S. producers lost 7 million dozens while imports increased by about 5 million dozens. As a result, the U.S. producers' share of the man-made fiber underwear market fell from 95 percent in 1980 to about 87 percent in 1984. In the women's, girls' and infants' sector the U.S. share dropped to an estimated 84 percent in the latter year.

Import Value vs Domestic Producers Price

Three-fourths of the Category 652 underwear imported from China are entered under TSUSA No. 378.6030—women's, girls' and infants' non-ornamented knit underwear. These items are entered at landed, duty-paid values below the domestic producers price for comparable garments.

June 12, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, between the Governments of the United States and the People's Republic of China; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended,

you are directed to prohibit, effective on June 18, 1985, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 652 produced or manufactured in the People's Republic of China and exported during the ninety-day period which began on May 30, 1985 and extends through August 27, 1985, in excess of 403,109 dozen.¹

Textile products in Category 652 which have been exported to the United States prior to the first day of the indicated ninety-day period shall not be subject to this directive.

Textile products in Category 652 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,
Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-14468 Filed 6-14-85; 8:45 am]

BILLING CODE 3510-DR-M

Requesting Public Comment on Bilateral Textile Consultations With the Government of Turkey on Category 335 (Women's, Girls' and Infants' Cotton Coats), and 340 (Men's and Boys' Cotton Shirts)

June 12, 1985.

On May 30, 1985, the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, requested the Government of Turkey to enter into consultations concerning exports to the United States of women's, girls' and infants' cotton coats in Category 335 and men's and boys' cotton shirts in Category 340.

The purpose of this notice is to advise that, if no solution is agreed upon in

consultations with Turkey within sixty days after official notification, entry and withdrawal from warehouse for consumption of women's, girls' and infants' cotton coats in Category 335 and men's and boys' cotton shirts in Category 340, produced or manufactured in Turkey and exported to the United States during the twelve-month period which began on May 30, 1985, may be restrained at 37,322 and 134,629 dozen respectively.

Summary market statements for each of these categories follow this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Categories 335 and 340 is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further considerations.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Turkey—Market Statement

Category 335—Women's, Girls', and Infants' Cotton Coats, etc.

May 1985.

Summary and Conclusions

United States imports of Category 335 from Turkey were 40,080 dozen during the year-ending March 1985, more than ten times the exports of a year earlier. Imports from Turkey in commercial quantities began in 1983 when 1,356 dozen were imported. Imports increased to 32,005 dozen in 1983 and were imported at an annual rate of 43,068 dozen during the first quarter of 1985. These sharp and substantial increases and the low values of Category 335 imports from Turkey add materially to the disruption of the U.S. market.

Production

U.S. domestic production of Category 335 coats averaged 1.5 million dozen during the first half of the seventies; 905,000 dozen during the second half; and 686,000 dozen from 1980 through 1983. Production in 1983 amounted to 742,000 dozen, down 5.1 percent from 782,000 dozen produced in 1983. U.S. Bureau of Census "cuttings" data for women's coats of all fibers indicated a decline in production of 10.2 percent in 1984. If the decline in "cuttings" is indicative of the change in production of Category 335, the 1984 production would be only 666,000 dozen.

Imports

U.S. imports of Category 335 from all sources were at a record level of 2,177,000 dozen in 1984, up 33.4 percent from the 1,642,000 dozen imported in 1983. Imports for the first quarter of 1985 were at an annual rate of 2,184,000 dozen. Imports in March 1985 were 186,915 dozen compared with 149,371 in March 1984.

Import Penetration

During the first half of the seventies, the ratio of imports to domestic production of Category 335 averaged 30 percent. This almost tripled to 88 percent during the last half and rapidly escalated to 238 percent during the first four years of the eighties. The 1984 ratio is estimated to have been between 293 to 327 percent.

The domestic producers' share of the market for domestically produced and imported Category 335 declined precipitously during the seventies and continued for only 25 percent of the market in 1984.

Import Values

Approximately 8 percent of the Category 335 imports from Turkey during January-March 1985 were entered as women's other coats, not ornamented, valued over 4 U.S. dollars each. These coats were entered at duty-paid values well below the U.S. producer price of comparable coats.

Turkey—Market Statement

Category 340—Men's and Boys' Woven Cotton Shirts

May 1985.

Summary and Conclusion

United States imports of Category 340 from Turkey were 155,000 dozen for the year-ending March 1985. Imports were 3,000 dozen for the same period one year earlier. Forty-five percent of the year-ending March 1985 total entered the U.S. in the first three months of this year. Annualized, this 1st quarter data indicates that 1985 Category 340 imports from Turkey would be 280,000 dozen. In 1983, imports from Turkey of this category were 1,000 dozen compared to only 24 dozen in 1982.

Import growth from Turkey of Category 340 has been sharp and substantial, adding to the existing market disruption in this category.

General Imports

Imports of Category 340 from all sources increased 29 percent between 1983 and 1984. In the first three months of 1985, imports of this category increased an additional 30

¹The level has not been adjusted to reflect any imports exported after May 29, 1985.

percent from the same period in 1984. The overall growth rate from 1980 to 1984 was 45 percent; seventy-two percent of this growth occurred in 1984 alone.

U.S. Production and Market Share

U.S. Production of this category has been on the decline, and is estimated for 1984 to be about half of the 1979 level. Between 1980 and 1983 production declined from 5,526,000 dozen to 4,735,000 dozen, a drop of 14 percent. Production in 1984 is estimated to be flat, or just slightly below the 1983 level. Cuttings of all men's and boys' shirts declined 5 percent in the first three months of 1985.

Import Penetration

The import-to production ratio for this category has increased sharply over the last 5 years. In 1980 the ratio had topped 100 percent for the first time, reaching 114.3 percent. By 1984 the ratio had climbed 80 percentage points to approximately 194 percent. Between 1983 and 1984, because of the huge increase in imports, the ratio climbed 44 percentage points.

Employment

Employment in the men's and boys' shirt industry was 99,200 workers in 1984.¹ This is approximately the same level as in 1980. In the first three months of 1985 employment went down 2.4 percent over the same period one year earlier.

Import Value vs Domestic Producer's Price

Seventy percent of the Category 340 from Turkey entered under TSUSA number 379.5550—men's other cotton sport shirts. These items entered at duty-paid values below the U.S. producer's price for comparable garments.

[FR Doc. 85-14470 Filed 6-14-85; 8:45 am]

BILLING CODE 3510-DR-M

appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039/7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 85-14450 Filed 6-14-85; 8:45 am]

BILLING CODE 3710-05-M

DEPARTMENT OF EDUCATION

National Advisory Council on Indian Education; Closed Meeting

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming closed meeting of the National Advisory Council on Indian Education. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES: July 9-10, 1985, 9:00 a.m. until conclusion of business each day.

ADDRESS: U.S. Department of Education, 400 Maryland Avenue SW., Room 2177, Washington, D.C. 20202 (202/732-1887).

FOR FURTHER INFORMATION CONTACT: Lincoln C. White, Executive Director, National Advisory Council on Indian Education, 2000 L Street NW., Suite 574 Washington, D.C. 20036 (202/634-6160).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under section 442 of the Indian Education Act (20 U.S.C. 1221g). The Council is established to assist the Secretary in carrying out responsibilities under section 441(a) of the Indian Education Act (Title IV of Pub. L. 92-318), through advising Congress, the Secretary of Education, the Under Secretary of Education and the Assistant Secretary of Elementary and Secondary Education with regard to education programs benefiting Indian children and adults.

The closed meeting will start at approximately 9:00 a.m., and will end at the conclusion of business each day, approximately 5:00 p.m. The Council will be reviewing applications submitted under the Title IV, Indian Fellowship Program of the Indian Education Act. The reviewing of applications must be held in the highest confidence until the announcement is released by the proper authorities as to which applications will be funded. The premature disclosure of information discussed during the review process is likely to significantly frustrate implementation of agency action. Financial information which is privileged or confidential contained in

and related to these proposals will be discussed at the review session. Discussions will touch upon matters that would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemptions (9), (4) and (6) of section 552(b) of Title 5 U.S.C. The agenda includes reviewing of applications submitted under the Title IV, Indian Fellowship Program of the Indian Education Act and making recommendations to the Secretary of Education with respect to their approval, as authorized under section 442(b)(2) of the Act.

A summary of the activities of the closed session and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552b will be available to the public within fourteen days of the meeting.

Dated: June 4, 1985.

Signed at Washington, D.C.

Lincoln C. White,

Executive Director, National Advisory Council on Indian Education.

[FR Doc. 85-14513 Filed 6-14-85; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-FC-84-021; OFP Case No. 61051-9257-20-24]

Applied Energy Services, Inc.; Order Granting Exemption From Prohibitions; Correction

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Correction to Order Granting to Applied Energy Services, Inc., Exemption from Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: The April 26, 1985 Federal Register (50 FR 16538) referred to "Applied Energy Sciences, Inc.", three (3) times. The order should read "Applied Energy Services, Inc." This order can be found at FR Doc. 85-10127.

Issued in Washington, D.C. on May 22, 1985.

Robert L. Davies,

Director, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85-14497 Filed 6-14-85; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Tuesday 9 July through Friday 12 July 1985.

Time: 0800-1700 hours daily (open).

Place: Pentagon, Washington, DC.

Agenda: The Army Science Board 1985 Summer Study on Training and Training Technology—Applications for AirLand Battle and Future Concepts will meet to review previous information collected on Training and Training Technology; to discuss training and training technology with selected subject matter experts and to discuss preliminary study findings. This meeting is open to the public. Any interested person may attend.

¹ SIC 2321, Men's and boys' shirt and nightwear industry.

[Docket No. ERA-FC-85-012; OFP Case No. 55118-9276-21, 22, 23-24]

General Electric Co.; Acceptance of Petition for Exemption and Availability of Certification

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Acceptance of Petition for Exemption and Availability of Certification by General Electric Company.

SUMMARY: On April 12, 1985, General Electric Company (GE) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for their proposed COGEBAY cogeneration facility located in Baytown, Texas, from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules governing the cogeneration exemption were revised on June 25, 1982 (47 FR 29209, July 6, 1982), and are found at 10 CFR 503.37.

The COGEBAY Cogeneration Plant is a cogeneration facility which will be located on land belonging to Mobay Chemical Corporation at its Baytown plant, West Bay Road, Baytown, Texas 77520.

The proposed COGEBAY Cogeneration Plant is a gas turbine, heat recovery steam generator (HRSG) and an extraction condensing steam turbine-generator installation which will supply steam to Mobay at 630 psig/509°F. It is intended that the electric power from the gas turbine-generators and the condensing steam turbine-generator will be purchased by a Texas electric utility company which is interconnected with the Electric Reliability Council of Texas regional grid.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination, and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to

submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification, as well as other documents and supporting materials on this proceeding, is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1E-190, Washington, D.C. 20585, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any extension, together with a statement of reasons therefor, would be published in the **Federal Register**.

DATES: Written comments are due on or before August 1, 1985. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Office of Fuels Programs, Room GA-073, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585 (Attn: Frank Duchaine).

Docket No. ERA-FC 85-012 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Frank Duchaine, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW, Room GA-045, Washington, D.C. 20585, Telephone (202) 252-8233

Steven E. Ferguson, Office of General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue, SW, Washington, D.C. 20585, Telephone (202) 252-6947.

SUPPLEMENTARY INFORMATION: The cogeneration plant system will consist of three General Electric MS7001E gas turbine-generators, coupled to three supplementary-fired HRSGs and a single automatic extraction/admission condensing steam turbine-generator. The HRSGs are supplementary-fired. The steam turbine is sized to handle the total steam generation with unfired HRSGs at minimum ambient temperature minus the minimum process steam flow required by Mobay. This is necessary to provide an economical cogeneration plant that will also have the required operational flexibility to respond to changing process steam

demand. The gas turbines and the condensing steam turbine-generator are connected to electrical generating units which have a design net capacity of 329,320 kilowatts (average life) at 69°F dry bulb ambient and 60°F wet bulb ambient with 200,000 pph steam to process and supplementary-fired HRSGs.

The purpose of the General Electric MS7001E will be to serve as the cogeneration system's prime mover, providing power for the generation of electricity and the source of high temperature exhaust gas which will be assisted by supplemental firing of natural gas in the HRSGs for the sequential production of steam for industrial applications and the steam turbine-generator.

The petitioner proposes to burn natural gas in the combustion gas turbine and HRSGs.

The cogeneration facility is classified as a electric powerplant under FUA because more than 50 percent of its net annual electric generation will be sold.

Section 212(c) of the Act and 10 CFR 503.37 provide for a permanent cogeneration exemption from the prohibitions of Title II of FUA. In accordance with the requirements of § 503.37(a)(1), GE has certified to ERA that:

1. The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility, where the calculation of savings is in accordance with 10 CFR 503.37(b); and

2. The use of a mixture of oil or natural gas and an alternate fuel for the cogeneration facility, for which an exemption under 10 CFR 503.38 would be available, would not be economically or technically feasible.

In accordance with the evidentiary requirements of § 503.37(c) (and in addition to the certification discussed above), GE has included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and
2. An environmental impact analysis, as required under 10 CFR 503.13.

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR Part 1500 *et seq.*; and DOE's guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3)

a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the *Federal Register* as soon as possible. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that GE is entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, DC, on May 22, 1985.

Robert L. Davies,

Director, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85-14500 Filed 6-14-85; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-85-001; OFP Case No. 63025-9264-20-24]

Gilroy Energy Co., Inc.; Order Granting Exemption

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order granting to Gilroy Energy Company, Inc., Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby given notice that it has granted a permanent cogeneration exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act") to Gilroy Energy Company, Inc. (Gilroy or "the petitioner"). The permanent cogeneration exemption permits the use of natural gas as the primary energy source for a 115 MW (net, approximate) combined cycle cogeneration facility designed to produce electricity and process steam at Gilroy Foods, Inc., plant in Gilroy, California. The final exemption order and detailed information on the proceeding are provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATES: The order shall take effect on August 16, 1985. The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000

Independence Avenue, SW, Room 1E-190, Washington, D.C. 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

George G. Blackmore, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW, Room GA-045, Washington, D.C. 20585, Phone (202) 252-1774

Steven E. Ferguson, Office of General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue, SW, Washington, D.C. 20585, Phone (202) 252-6947.

SUPPLEMENTARY INFORMATION: On January 24, 1985, Gilroy petitioned ERA under section 212 of FUA and 10 CFR 503.37 for a permanent cogeneration exemption to permit the use of natural gas in a 115 MW (net, approximate) combined cycle cogeneration facility consisting of a gas turbine generator, waste heat recovery steam generator, and a steam extraction turbine generator. As all of the net annual generation of electrical power from the unit will be sold to the Pacific Gas and Electric Company, the unit is, by definition, an electric powerplant under 10 CFR 500.2. The facility will produce approximately 80,000 pounds of steam per hour which will supply Gilroy Foods' needs. Gilroy will operate the facility.

Basis for Permanent Exemption Order

The permanent exemption order is based upon evidence in the record including Gilroy's certification to ERA, in accordance with 10 CFR 503.37(a)(1), that:

1. The oil or natural gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of such cogeneration facility, in accordance with 10 CFR 503.37(a)(1)(i); and
2. The use of a mixture of natural gas and coal or oil and coal in the cogeneration facility, will not be technically feasible, in accordance with 10 CFR 503.37(a)(1)(ii).

Procedural Requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the *Federal Register* on March 22, 1985 (50 FR 11536), commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency for comments as required by section

701(f) of the Act. During the comment period, interested persons were afforded an opportunity to request a public hearing. The comment period closed on May 6, 1985; no comments were received and no hearing was requested.

NEPA Compliance

After review of the petitioner's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA).

Order Granting Permanent Exemption

Based upon the entire record of this proceeding, ERA has determined that Gilroy has satisfied the eligibility requirements for the requested permanent cogeneration exemption, as set forth in 10 CFR 503.37. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a permanent cogeneration exemption to Gilroy to permit the use of natural gas as the primary energy source for its cogeneration facility at Gilroy Foods, Inc., Gilroy, California.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the *Federal Register*.

Issued in Washington, D.C., on June 6, 1985.

Robert L. Davies,

Director, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85-14498 Filed 6-14-85; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-85-014; OFP Case No. 67039-9277-20-24]

Simpson Paper Co.; Petition for Exemption

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Acceptance of Petition for Exemption and Availability of Certification by Simpson Paper Company.

SUMMARY: On May 6, 1985, Simpson Paper Company (Simpson), filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for a proposed electric powerplant to be located at its Pomona, California paper mill, from the prohibitions of Title II of the Powerplant

and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq.) ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules governing the cogeneration exemption were revised on June 25, 1982 (47 FR 29209, July 6, 1982), and are found at 10 CFR 503.37.

The proposed powerplant for which the petition was filed is an approximately 33.37 MW (net) combined cycle cogeneration facility consisting of a gas turbine generator, a waste heat recovery boiler, a duct burner and ancillary equipment. The plant will burn natural gas or No. 2 fuel oil. It is expected that virtually all of the net annual electric power produced by the cogenerator will be sold to Southern California Edison Company (Edison), making the cogeneration facility an electric powerplant pursuant to the definitions contained in 10 CFR 500.2. The facility will produce approximately 116,300 lbs. of steam per hour which will supply Simpson's needs. Simpson will operate the facility.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination on the exemption request and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, D.C. 20585, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a

statement of reasons therefor, would be published in the Federal Register.

DATES: Written comments are due on or before August 1, 1985. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-007, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585.

Docket No. ERA-FC-85-014 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

George G. Blackmore, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW, Room GA-045, Washington, D.C. 20585, Phone (202) 252-1774

Steven E. Ferguson, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue, SW, Washington, D.C. 20585, Phone (202) 252-6947.

SUPPLEMENTARY INFORMATION: Simpson proposes to install a cogeneration system at their paper mill in Pomona, California, which will (1) generate electrical power for sale to Edison, and (2) produce steam to meet Simpson's requirements. The proposed cogeneration system will be operated by Simpson. The system will consist of a gas turbine generator which will produce electric power, a waste heat recovery boiler, a duct burner and ancillary equipment.

The cogeneration facility is classified as an electric power-plant under FUA because more than 50 percent of its net annual electric generation will be sold.

Section 212(c) of the Act and 10 CFR 503.37 provide for a permanent cogeneration exemption from the prohibitions of Title II of FUA. In accordance with the requirements of § 503.37(a)(1), Simpson has certified to ERA that:

1. The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the proposed powerplant, where the calculation of savings is in accordance with 10 CFR 503.37(b); and

2. The use of a mixture of petroleum or natural gas and an alternate fuel in the cogeneration facility, for which an exemption under 10 CFR 503.38 would be available, would not be economically or technically feasible.

In accordance with the evidentiary requirements of § 503.37(c) (and in addition to the certifications discussed above), Simpson has included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and
2. An environmental impact analysis, as required under 10 CFR 503.13.

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR Part 1500 et seq.; and DOE guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the Federal Register as soon as practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that Simpson is entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, D.C., on June 7, 1985.

Robert L. Davies,

Director, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85-14499 Filed 6-14-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. TA85-2-1-000 and TA85-2-1-001]

Alabama-Tennessee Natural Gas Co.; Proposed PGA Rate Adjustment

June 11, 1985

Take notice that on May 31, 1985, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), Post Office Box 918, Florence, Alabama, 35631, tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets:

Third Revised Sheet No. 4

or
Alternate Third Revised Sheet No. 4
and
Second Revised Sheet No. 5

These tariff sheets are proposed to become effective July 1, 1985. Alabama-Tennessee states that the purpose of this filing is to adjust its rates to conform to the rates of its suppliers, Tennessee Gas Pipeline Company (Tennessee), a Division of Tenneco, Inc., and Sun Exploration and Production Company. Alabama-Tennessee states that the changes in its rates have been made in conformity with the PGA and related provisions of its tariff and the conditions contained in the Stipulation and Agreement in Docket No. RP83-24-000.

The tariff sheets submitted herewith provide for the following rates:

| Rate schedule | Rates after current adjustment |
|--|--------------------------------|
| Third Revised Sheet No. 4 | |
| G-1: | |
| Demand: | |
| D ₁ | \$7.53 |
| D ₂ | 8.26 |
| Commodity | 12.85 |
| Gas | 313.06 |
| SG-1: | |
| Commodity | 21.41 |
| Gas | 359.51 |
| I-1: | |
| Commodity | 16.71 |
| Gas | 333.96 |
| Alternate Third Revised Sheet No. 4 | |
| G-1: | |
| Demand: | |
| D ₁ | \$7.53 |
| D ₂ | 8.26 |
| Commodity | 12.85 |
| Gas | 410.82 |
| SG-1: | |
| Commodity | 21.41 |
| Gas | 457.27 |
| I-1: | |
| Commodity | 16.71 |
| Gas | 431.72 |

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional customers and affected State Regulatory Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 19, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc 85-14484, Filed 6-14-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI85-496-000]

Anadarko Production Co.; Application

June 11, 1985.

Take Notice that on June 3, 1985, Anadarko Production Company filed an Application for Limited-Term Partial Abandonment Authorization and for Blanket Limited-Term Certificates of Public Convenience and Necessity to authorize a special marketing program entitled "Anadarko's Production Marketing Program" ("Pro-Mart"). Applicant proposes to conduct this program in a manner similar to those SMP extensions authorized by the Commission on September 26, 1984 in Docket Nos. CI83-269, *et al.* Under Pro-Mart, Applicants would market released

gas. The authority sought herein would authorize the limited-term abandonment of the sale of the released gas to existing purchasers, and the resale of that gas to Pro-Mart purchasers, pursuant to section 7 of the Natural Gas Act. In addition, the proposed authorization would authorize interstate pipeline, distributors and Hinshaw pipelines to transport Pro-Mart volumes pursuant to section 7(c) of the Natural Gas Act and would authorize intrastate pipelines to transport Pro-Mart volumes pursuant to section 311(a)(2) of the Natural Gas Policy Act of 1978.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make protest with reference to said application should on or before June 26, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Under this procedure herein provided for, unless Applicant is otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-14487 Filed 6-14-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-545-000]

Boston Edison Co.; Filing of Cancellation of Rate Schedule

June 7, 1985.

The filing Company submits the following:

Take notice that Boston Edison Company ("Boston Edison") on May 29, 1985, filed a notice of cancellation of its Rate Schedule FERC No. 71 for service to the Fitchburg Gas and Electric Light Company ("Fitchburg"). According to Boston Edison, Fitchburg has failed to pay its bill for power delivered in March 1985 and has made clear that it will be delinquent in payment of bills for succeeding months. Boston Edison seeks to cancel the rate schedules if (1) Fitchburg does not give prompt written assurance that it will continue to perform under the contract, and (2) Fitchburg does not pay its bills according to a schedule of payments that would end delinquent payments by early July 1985.

Boston Edison asks that the notice of cancellation be made effective on July 28, 1985, sixty days from the date of the filing. Boston Edison states that it will move to withdraw the notice before the requested effective date if Fitchburg gives assurance of continued performance and meets the schedule of payments.

Boston Edison states that it has served copies of its filing on Fitchburg and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 22, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-14485 Filed 6-14-85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7704-002]

Enumclaw/Washington Associates; Surrender of Preliminary Permit

June 12, 1985.

Take notice that Enumclaw/Washington Associates, Permittee for the Mud Mountain Project No. 7704, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 7704 was issued on August 8, 1984, and would have expired on January 30, 1986. The project would have been located at the Army Corps of Engineers' Mud Mountain Dam on the White River in King and Pierce Counties, Washington.

The Permittee filed the request on April 8, 1985, and the preliminary permit for Project No. 7704 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site may be filed on the next business day.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-14488 Filed 6-14-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-159-000]

Florida Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

June 11, 1985.

Take notice that on June 3, 1985, Florida Gas Transmission Company (FGT) tendered for filing the following tariff sheet to its FERC Gas Tariff, First Revised Volume No. 1:

First Revised Sheet No. 16.

The proposed effective date for the sheet is July 1, 1985.

The change reflected in the First Revised Sheet No. 16 will allow FGT the flexibility to increase the pressure at delivery points on its system, subject to the caveat that any such increase will not be permitted if it would, in FGT's sole discretion, adversely affect the operation of FGT's system or inhibit FGT's ability to deliver gas to FGT's other customers.

FGT states that a copy of its filing has been served on all jurisdictional customers served by FGT and the appropriate state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 19, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-14486 Filed 6-14-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos CP85-580-000, CP85-581-000, CP85-582-000, CP85-583-000, CP85-584-000]

Northwest Central Pipeline Corp.; Applications

June 11, 1985.

Take notice that on June 5, 1985, Northwest Central Pipeline Corporation (Applicant), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket Nos. CP85-580-000, CP85-581-000, CP85-582-000, CP85-583-000, and CP85-584-000 applications pursuant to section 7(c) of the Natural Gas Act for limited-term certificates of public convenience and necessity authorizing the continued transportation of natural gas which service has previously commenced pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205), all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

The Appendix hereto provides details for each of the referenced dockets under which Applicant proposes to continue transporting natural gas. Applicant states that the volumes to be transported would be received into its system at existing points of interconnection and redelivery would be at existing points of delivery with either the end-users or the representative local distribution companies.

Applicant would receive the subject transportation volumes at existing

receipt points on its system and Applicant would redeliver the subject transportation volumes at existing points or redelivery as reflected in applicable §157.209 prior notice proceedings which are identified in the Appendix hereto.

Applicant is charging all of the shippers referenced here-in the then-effective rates and provisions as set forth in Applicant's FERC Gas Tariff, Original Volume No. 2, including 7.00 cents per Mcf per 100 miles of forward haul transportation and 1.00 cent per Mcf per 100 miles for backhaul transportation.

In Docket Nos. CP85-580-000, CP85-581-000, CP85-583-000, and CP85-584-000 Applicant is collecting a GRI Funding Unit of 1.25 cents as reflected in its FERC Gas Tariff, Original Volume No. 1.

Any person desiring to be heard or to

make any protest with reference to said application should on or before June 21, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal

Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

APPENDIX

| Docket No. | Distribution co. | End-user | Producer/supplier | Transportation volumes (million Btu per day) | Term | Other transporters | Prior notice certificate No. |
|--------------|-----------------------------|-----------------------------|--|--|----------------------------|--------------------|------------------------------|
| CP85-580-000 | The Gas Service Co. | B.F. Goodrich Co. | Scissortail Natural Gas Co. ¹ | 5,000 | (1) | | CP85-436-000 |
| CP85-581-000 | (1) | Pester Refining Co. | do | 1,800 | (1) | | CP85-462-000 |
| CP85-582-000 | Acadian Gas Pipeline System | Union Texas Petroleum Corp. | Union Texas Products Corp. | 6,000 | Sept. 6, 1985 * | ANR Pipeline Co. | CP85-148-00 |
| CP85-583-000 | Union Gas System, Inc. | City of Coffeyville, KS | Colonial Corp. | 1,700 | Feb. 4, 1986 * | | CP85-452-00 |
| CP85-584-000 | (1) | Petrolite Corp. | Scissortail Natural Gas Co. ¹ | 1,500 | Aug. 22, 1985 ¹ | | CP85-461-000 |

¹ Transportation service extends on a month-to-month basis.

² Deliveries are made directly to the end-user, without the aid of a local distribution company.

³ Transportation service is being rendered for Scissortail rather than for the end-user.

* The term may be extended by mutual agreement of the parties.

[FR Doc. 85-14489 Filed 6-14-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA85-34-000]

Northwest Central Pipeline Corp.; Petition for Staff Adjustment and Interim Relief

June 12, 1985.

On May 16, 1985, Northwest Central Pipeline Corporation (Northwest Central), P.O. Box 3288, Tulsa, Oklahoma 74101, filed with the Federal Energy Regulatory Commission (Commission) a petition pursuant to section 206(d) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C 3346(d) (1982), and § 282.206(h) of the Commission's Regulations, 18 CFR 206(h). Northwest Central seeks an order from the Director of the Office of

Pipeline and Producer Regulations (Director) exempting from incremental pricing certain customers located in industrial areas of Kansas City, Kansas, which are served by Northwest Central. Additionally, Northwest Central requests interim relief under Rule 1113 of the Rules of Practice and Procedure in order to prevent irreparable injury.

Northwest Central states that its service to industrial customers is being jeopardized because these customers are subject to incremental pricing under Title II of the Natural Gas Policy Act. Northwest Central's gas supply is thus artificially increased by incremental pricing surcharges while gas delivered by competitors is not. As a result, there is a potential for lost sales which will cause Northwest Central's remaining customers, including high priority residential and small commercial load

users, to bear special hardships, inequities or unfair distribution of burdens within the meaning of NGPA section 502(c). Northwest Central believes that relief needs to be granted to prevent such a result.

Northwest Central asserts that these industrial customers play a vital role in protecting high priority end users by absorbing a portion of the pipeline's fixed costs through their off peak purchasers. In support of their petition, Northwest Central points out the Director recently ruled in *Pacific Gas and Electric Co.*, 27 FERC 62,353 (1984) and *Southern California Gas Co.*, 28 FERC 62,302 at p. 63,575 (1984) that the "primary concern must be the impact on high priority users" in determining whether to grant exceptions to prevent load loss to alternative fuels. The

Director granted PG&E and SoCal exemptions from incremental pricing based upon findings that the two companies had lost existing load and could not attract new load. Northwest Central feels that absent the incremental pricing surcharge they would be able to compete with other natural gas suppliers and thus not overburden their high priority users.

In addition, Northwest Central requests interim relief pursuant to § 385.1113 of the Commission's Regulations pending a decision on this petition.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of Subpart K. All motions to intervene must be filed with 15 days after publication of this notice in the *Federal Register*.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-14490 Filed 6-14-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP85-158-000]

Raton Natural Gas Co.; Change in Rates

June 11, 1985.

Take notice that Raton Natural Gas Company (Raton) on June 3, 1985, tendered for filing, proposed changes in its FERC Gas Tariff, Volume No. 1, consisting of Second Substitute Thirty-third Revised Sheet No. 3a. The change in rate is for jurisdictional sales and service.

Raton states that the instant filing is a restatement of rates as required by 18 CFR 154.38(d)(4)(vi)(a) of the Regulations and does not increase or decrease revenue but reallocates cost of service between Demand and Commodity.

When Second Substitute Revised Sheet No. 3a is made effective on November 1, 1985, Raton's subsequent filed Thirty-fourth Revised Sheet No. 3a must be changed. To effect this change Raton has filed Substitute Thirty-fourth Revised Sheet No. 3a to be effective April 1, 1985.

Copies of Raton's filing are on file with the Commission and are available for public inspection. In addition, copies have been served on Raton's

Jurisdictional Customer and the New Mexico Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 19, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-14491 Filed 6-14-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. EF85-4071-000]

Southwestern Power Administration; Filing

June 12, 1985.

Take notice that the Deputy Secretary, U.S. Department of Energy on May 22, 1985, submitted to the Commission for confirmation, approval and placement in effect on a final basis, pursuant to the authority vested in the Commission by Delegation Order No. 0204-108, the proposed Rate Schedule P-4B for the period July 1, 1985, through September 30, 1986. The new rate schedule will provide for borderline peaking arrangements to replace borderline firm service arrangements to various municipal customers in Oklahoma and part of Arkansas served through non-Federal transmission systems. Participation in service under Rate Schedule P-4B is voluntary and affects neither rates charged to customers served by the Southwestern Power Administration (SWPA) nor the net results of SWPA's 1983 Integrated System Power Repayment Study. The Deputy Secretary confirmed, approved and place in effect on an interim basis under Delegation Order No. 0204-108, the proposed Rate Schedule 4-4B for the period requested.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington,

D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure. All such petitions or protest should be filed on or before June 28, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-14492 Filed 6-14-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. G-4824-000 et al.]

Texaco, Inc., et al.; Applications for Certificates, Abandonments of Service and Petitions To Amend Certificates

June 12, 1985.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 28, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

¹This notice does not provide for consolidation for hearing of the several matters covered herein.

| Docket No. and date filed | Applicant | Purchaser and location | Price per 1,000 ft ³ | Pressure base |
|--|--|--|---------------------------------|---------------|
| G-4824-000, D. May 28, 1985 | Texaco Inc., P.O. Box 52332, Houston, Texas 77052 | Cities Service Gas Company, Hugoton Field, Stevens and Seward Counties, Kansas. | (1) | |
| G-5362-000, D. May 24, 1985 | Texaco Producing Inc., P.O. Box 52332, Houston, Texas 77052 | Colorado Interstate Gas Company, Greenwood Field, Morton County, Kansas. | (2) | |
| G-5591-001, D. June 3, 1985 | Conoco Inc., P.O. Box 2197, Houston, Texas 77252 | Tennessee Gas Pipeline Company Rincon Field, Starr County, Texas. | (3) | |
| G-7166-000, D. May 24, 1985 | Gulf Oil Corporation, P.O. Box 2100, Houston, Texas 77252 | United Gas Pipe Line Company, Hayes Field, Calcasieu and Jeff Davis Parishes, Louisiana. | (4) | |
| G-13633-003, D. May 24, 1985 | Pennzoil Producing Company, P.O. Box 2864, Monroe, La. 71207 | Primos Gathering System (Succ. to Petro-Lewis Funds, Inc.), Monroe Field, Ouachita and Morehouse Parishes, Louisiana. | (5) | |
| C62-47-002, D. May 24, 1985 | Gulf Oil Corporation | Colorado Interstate Gas Company, Patrick Draw Field, Sweetwater County, Wyoming. | (6) | |
| C64-106-001, D. May 23, 1985 | Sun Exploration and Production Co., P.O. Box 2880, Dallas, Texas 75221-2880 | Northern Natural Gas Company, Hunt-Baggett Field, Crockett County, Texas. | (7) | |
| C67-1594-001, D. May 23, 1985 | Ken-McGee Corporation, P.O. Box 25861, Oklahoma City, Okla. 73125 | Transcontinental Gas Pipe Line Corporation, Ship Shoal block 33 Platform B, Offshore Louisiana. | (8) | |
| C168-816-005, June 3, 1985 | Phillips Petroleum Company, 336HS&L Bldg., Bartlesville, Okla. 74004 | Northern Natural Gas Company, Pandhandle Area, Gray County, Texas. | (9) | |
| C172-854-000, D. May 30, 1985 | Texaco Producing Inc. (Succ. in interest to Getty Oil Company) | El Paso Natural Gas Company, Boardman County, Texas. | (10) | |
| C176-733-003, C176-737-003, and C176-735-002, E. Mar. 27, 1985 | Final Oil & Gas, Inc. (Succ. to Petrofina Delaware, Inc. & Finadel Exploration), P.O. Box 2159, Dallas, Texas 75221 | Transco Gas Supply Co. & Transcontinental Gas Pipe Line Corporation, certain acreage in Offshore Louisiana and Offshore Texas. | (11) | 14.73 |
| C179-233-001, D. May 30, 1985 | Gulf Oil Corporation | Consolidated Gas Supply Corporation, Glenville Field, Gilmer County, West Virginia. | (12) | |
| C182-213-001, Apr. 1, 1985 | Amoco Production Company, P.O. Box 50879, New Orleans, La. 70150 | Tennessee Gas Pipeline Company and Florida Gas Transmission Company, Section 5, T2S-R13W, Stone County, Mississippi. | (13) | 14.73 |
| C185-466-000, E. May 20, 1985 | Proven Properties Inc. (Succ. in interest to Pennzoil Producing Company), P.O. Box 2049 Houston, Texas 77252-2049 | Texas Gas Transmission Corporation, Eugene Island Area, Blocks 330 (portion) and 337, Offshore Louisiana. | (14) | 14.73 |
| C185-466-000 (C180-88), B. May 23, 1985 | Geo. Oil and Gas Company of Houston, P.O. Box 2511, Houston, Texas 77001 | Northwest Pipeline Corporation, Blanco Mesaverde and undesignated Palmer Fields, San Juan County, New Mexico. | (15) | |
| C185-468-000 (C180-89), B. May 23, 1985 | do | Northwest Pipeline Corporation, Twin Buttes Field, Garfield County, Colorado. | (16) | |
| C185-470-000 (C180-91), B. May 23, 1985 | do | Northwest Pipeline Corporation, Blanco Mesaverde Field, San Juan County, New Mexico. | (17) | |
| C185-471-000 (C180-101), B. May 23, 1985 | do | Northwest Pipeline Corporation, Blanco Mesaverde Field, San Juan County, New Mexico. | (18) | |
| C185-488-000 (G-13633), B. May 24, 1985 | Pennzoil Producing Company, P.O. Box 2864, Monroe, La. 71207 | Primos Gathering System (Succ. to Petro-Lewis Funds, Inc.), Monroe Field, Ouachita Parish, Louisiana. | (19) | |
| C185-489-000, B. May 31, 1985 | ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221 | Warren Petroleum Company, Warren Monument and Eunice Plants, Lea County, New Mexico. | (20) | |
| C185-490-000, B. May 31, 1985 | do | El Paso Natural Gas Company, NMFU Leases, Lea County, New Mexico. | (21) | |
| C185-491-000, B. June 3, 1985 | Wheeler Energy Company, 810 S. Cincinnati, Suite 200, Tulsa, Oklahoma 74119, Attn: Roger Wheeler, Jr. | Arkansas Louisiana Gas Company, Irene Gau Well, Sec. 35, T24N, R6W, Garfield County, Oklahoma. | (22) | |
| C185-492-000 (C173-810), B. June 4, 1985 | Amoco Production Company, P.O. Box 3092, Houston, Texas 77259 | Trunkline Gas Company, North Bird Island, Kleberg County, Texas. | (23) | |
| C185-493-000 (C161-1387), B. June 4, 1985 | do | United Gas Pipe Line Company, North Laward Field, Jackson County, Texas. | (24) | |
| C185-494-000 (C178-714), B. June 4, 1985 | do | El Paso Natural Gas Company, Sams Ranch Field, Chaves County, New Mexico. | (25) | |
| C185-495-000, E. June 3, 1985 | Sun Exploration and Production Company (Succ. in interest to Phillips Petroleum Company), P.O. Box 2880 Dallas, Texas 75221-2880 | Arkansas Louisiana Gas Company, Section 34, T10N, R23W, Johnson County, Arkansas. | (26) | 14.73 |
| C185-498-000, B. June 4, 1985 | Tumbleweed Production Company, 3300 South Cedar, Highway 207, Borger, Texas 79007 | Panhandle Eastern Pipeline Company, Carson County, Texas. | (27) | |
| C185-499-000 (C181-478-000), B. June 3, 1985 | Chevron U.S.A. Inc., P.O. Box 7643, San Francisco, Calif. 94120 | Trunkline Gas Company, Vermilion Block 213, Offshore Louisiana. | (28) | |
| C185-500-000 (C179-479), June 3, 1985 | do | Southern Natural Gas Company and United Gas Pipe Line Company, West Cameron Block 330 Field, Offshore Louisiana. | (29) | |

¹ Fuel for irrigation purposes.

² Fuel for Lessor for Agricultural Irrigation.

³ Lease Nos. 23518, 23783 and 27044 were surrendered to the lessor(s).

⁴ On 1-28-85, a rollover contract between Gulf and United was executed which does not cover certain leases which were covered by the original contract between the parties dated 7-9-58, as amended. The leases in which Gulf owned an interest that were covered by the original contract, but are not covered by the rollover contract, have been surrendered or terminated since the execution of the original contract.

⁵ Production has ceased from certain acreage. The leases have been sold or lost because of lack of production. The acreage is not committed to a gas contract.

⁶ Acreage has been assigned to Prenafra Corporation.

⁷ Assignment and Bill of Sale of Sun's Property Nos. 839217 and 839222 to Questa Oil and Gas Co.

⁸ All deliveries from Platform "B" have ceased and the functions of the platform have been assumed by the Platforms C-1 and C-2.

⁹ Applicant is filing to add an additional delivery point.

¹⁰ Reserves under lease depleted and percentage contract dated 9-19-81, was cancelled effective 1-1-82.

¹¹ By assignment Petrofina Delaware, Incorporated, a Delaware Corporation, transferred, assigned and conveyed unto Finadel Exploration, Inc., a Delaware Corporation certain acreage on 10-1-84 to be effective 10-1-84. Finadel Exploration, Inc., a Delaware Corporation by assignment, transferred, assigned and conveyed unto Final Oil & Gas, Inc., a Delaware Corporation certain acreage on 12-31-84 to be effective 12-31-84, and Petrofina Delaware, Incorporated, a Delaware Corporation by assignment transferred, assigned and conveyed unto Final Oil & Gas, Inc., a Delaware Corporation certain acreage on 12-31-84 to be effective 12-31-84.

¹² Portion of lease has been assigned to Continental Petroleum Company

¹³ Amending certificate of public convenience and necessity to permit the installation of additional compression.

¹⁴ On 1-31-85, effective 1-1-85, Pinto et al., assign all of their rights and interest in various lands and leases to Pennzoil. Subsequently, but also effective 1-1-85, Pennzoil assigned one-half of its newly acquired interest to Proven Properties, Inc.

¹⁵ Sale of dedicated properties to Quinoco Petroleum, Inc. on 1-1-84.

¹⁶ Reclassification of SEMU Drinkard Well #61 Well from an oil well to a gas well by the Oil Conservation Division of the Energy and Minerals Department of the State of New Mexico.

¹⁷ Reclassification of SEMU Drinkard Well #61 Well from a gas well to an oil well by the Oil Conservation Division of the Energy and Minerals Department of the State of New Mexico.

¹⁸ The natural flowing pressure of the Irene Gau Well is and has been insufficient to permit delivery of gas into the gathering systems of Arkansas Louisiana Gas Company since July 1983.

No sales from the well have occurred since Applicant acquired its leasehold interest. Applicant believes that the well could be reworked and economically produced into a low pressure gathering system. A low pressure contract offer has been obtained from Union Texas Products Corporation.

¹⁹ Gas sales contract has been terminated effective 12-31-84, because of cessation of production and the primary term having expired. Wells under the contract have been plugged and abandoned since 1977.

²⁰ There have been no deliveries of gas under the Gas Sales Contract since 4-5-75. All three wells on the lease have been plugged and abandoned. The last producing well on the lease, Louise Bonnot Well No. 1, was plugged and abandoned on 5-7-75. The Gas Sales Contract term expired on 1-1-81.

²¹ By Farmout Contract dated 9-1-83, Amoco assigned its interest in the SW/4 SW/4 sec. 10, T14S, R26E, to Herman V. Wallis.

²² Assignment of Oil and Gas Leases between Phillips Petroleum Company and Sun Exploration and Production Company dated 1-11-85.

²³ Panhandle Eastern Pipeline Company is in an over supply situation. They have a new purchaser for their product-Zena Energy, Inc., Oklahoma City, Oklahoma.

²⁴ No sales were ever made. Wells have been plugged and abandoned. No further significant exploratory prospects exist. Lease No. CCS-G-3129 expired on 2-19-83.

²⁵ All production from the lease committed under the contract has ceased and the lease expired on 8-19-84. Purchasers have therefore agreed to cancel the contract.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 85-14493 Filed 6-14-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP85-160-000]

Trunkline Gas Co.; Change in FERC Gas Tariff

June 11, 1985.

Take notice that on June 4, 1985, Trunkline Gas Company (Trunkline) tendered for filing the following sheet to its FERC Gas Tariff, Original Volume No. 1: Fifth Revised Sheet No. 3-A.1.

Trunkline states that this sheet is submitted to identify the transportation rate for backhaul service performed pursuant to Trunkline's Rate Schedule IT. Trunkline proposes that this sheet become effective June 1, 1985.

A copy of this filing has been served on Trunkline's jurisdictional customers and respective State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 19, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-14494 Filed 6-14-85; 8:45 am]
BILLING CODE 6717-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Announcement of Availability of Relocation Plan and Environmental Assessment, and Finding of No Significant Impact

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of availability of relocation plan and environmental

assessment, and finding of no significant impact.

SUMMARY: FEMA has prepared an environmental assessment (EA) on the proposed relocation of the Emergency Management Systems Test Facility (EMSTF) from the Washington Navy Yard, Washington, D.C. to Mt. Weather, Virginia. Based on the analyses in the EA, a finding of no significant impact has been made.

Background

For several years FEMA has leased space from the U.S. Navy at the Washington Navy Yard for operation of its test facility that supports the national radiological instrumentation program. At the beginning of FY 1985, the Navy notified FEMA that the lease would not be renewed, and placed a clause in the Interagency Agreement (IAA) requiring evacuation by September 30, 1985.

Proposed Action

Relocate the Test Facility to the FEMA-owned secure site on Mt. Weather, Clarke and Loudoun Counties, Virginia, approximately 70 miles from Washington, D.C. One existing structure, Building No. 217, would be renovated to house administrative offices and the electronics laboratories, and an extension would be constructed for the machine tools, X-ray machine, and radiation ranges.

Environmental Impact of the Proposed Action

The new location is in a Federal compound in a rural sparsely populated area. The nearest residence to the construction site outside the fenced-in secure government facility is approximately one-half mile. The west side of the building extension, itself, would abut the mountainside, and it is against the west side that the radiation beams would be targeted. The amount of protection to human and animal life afforded by structural building cement, the mountainside, and lead sheathing and lead bricks is considered more than sufficient. No radiation leakage to the building's exterior is anticipated. In addition, a radiation monitoring system would be installed throughout the interior, and a fail-safe radiation source cut-off and warning system would be provided for the radiation ranges. Neither radiological nor chemical

hazard effluent is anticipated due to the operation of the test facility. The transfer of four staff members and their families would not strain the services currently available in surrounding communities; and the operation of the test facility would not adversely affect the on-site water treatment plant and the sewage treatment plant.

Finding of No Significant Impact

Based upon the environmental assessment, we conclude that the proposed action is not a major Federal action and will not have a significant effect on the quality of the human environment. Therefore, an environmental impact statement for the proposed relocation will not be prepared.

For Further Information and for Single Copies of the EA Contact: Richard G. Katz, Emergency Management Systems Support, Federal Emergency Management Agency, 500 C Street SW., Room 607, Washington, D.C. 20472, Telephone No. (202) 640-3075.

Issued at Washington, D.C. June 3, 1985.

Samuel W. Speck,

Associate Director, State and Local Programs and Support Directorate.

[FR Doc. 85-14420 Filed 6-14-85; 8:45 am]
BILLING CODE 6718-01-M

[FEMA-738-DR]

Ohio; Amendment To Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Ohio (FEMA-738-DR), dated June 3, 1985, and related determinations.

DATED: June 7, 1985.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 646-3616.

Notice: The notice of a major disaster for the State of Ohio, dated June 3, 1985, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his

declaration of June 3, 1985: Coshocton and Portage Counties as adjacent counties for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Samuel W. Speck,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 85-14419 Filed 6-14-85; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-736-DR]

Puerto Rico; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Puerto Rico (FEMA-736-DR), dated May 31, 1985, and related determinations.

DATED: May 31, 1985.

FOR FURTHER INFORMATION CONTACT:

Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 646-3616.

Notice: Notice is hereby given that, in a letter of May 31, 1985 the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288), as follows:

I have determined that the damage in certain areas of the Commonwealth of Puerto Rico, resulting from severe storms, landslides, mudslides, and flooding beginning on May 16, 1985, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the Commonwealth of Puerto Rico.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the affected areas. You also are authorized to provide necessary Public Assistance in the affected areas, once an acceptable Commonwealth commitment has been provided. Consistent with the requirement that Federal assistance be supplemented, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Mr. Curtis R. Carleton of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following Municipalities of the Commonwealth of Puerto Rico to have been affected adversely by this declared major disaster:

Adjuntas, Anasco, Arecibo, Barceloneta, Jayuya, Mayaguez, Santa Isabel, Utuado, and Vega Baja for Individual Assistance.

Adjuntas, Barceloneta, Ciales, Guayanilla, Jayuya, Lares, Maricao, Orocovis, and Utuado for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Samuel W. Speck,

Associate Director, State and Local Programs and Support Federal Emergency Management Agency.

[FR Doc. 85-14421 Filed 6-14-85; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the *Federal Register* in which this notice appears. The requirements for comments are found in 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-007590-042.

Title: United States/Colombia

Conference.

Parties:

Coordinated Caribbean Transport, Inc.

Flota Mercante Grancolombia, S.A.

Lykes Bros. Steamship Co., Inc.

United States Lines (S.A.) Inc.

Synopsis: The proposed amendment would restate the agreement to conform to the Commission's regulations concerning form and format.

Agreement No.: 202-009836-016.

Title: Malaysia-Pacific Rate Agreement.

Parties:

American President Lines, Ltd.

A.P. Moller-Maersk Line

Sea-Land Service, Inc.

Synopsis: The proposed amendment would add Alaska to the scope of the agreement and would restate the agreement to conform to the Commission's regulations concerning form and format.

Agreement No.: 202-010122-013.

Title: Inter-American Freight Conference Area River Plate/Puerto Rico and U.S. Virgin Islands/River Plate.

Parties:

A. Bottacchi S.A. De Navegacion

C.F.I.E.I.

A/S Ivarans Rederi

Companhia Maritima Nacional

Companhia De Navegacao Lloyd

Brasileiro

Empresa Lineas Maritimas Argentinas

Sociedad Anonima (Elma S/A)

Transportacion Maritima Mexicana

S.A.

Compania Anonima Venezolana de Navegacion (C.A.V.N.)

Synopsis: The proposed amendment would reduce the bonding requirement from \$50,000 to \$10,000 and would restate the agreement to conform to the Commission's regulations concerning form and format.

Agreement No.: 224-010766.

Title: San Francisco Terminal

Agreement.

Parties:

The Port of San Francisco (Port)

Splosna Plovba Piran (United

Yugoslav Line)

Synopsis: Agreement No. 244-010766 provides for the utilization of the Port by the United Yugoslav Line as its published, regularly scheduled Northern California port of call. In consideration, United Yugoslav Line will pay to the Port 60 percent of all wharfage and dockage charges. All other tariff charges will remain in effect. The term of the agreement will commence on the first day of the month following the determination of the effective date by the Commission, and it will run for five years.

Agreement No.: 224-010767.

Title: San Francisco Terminal Agreement.

Parties:

Port of San Francisco (Port)

P.V.C. Lines (PVC)

Synopsis: Agreement No. 224-010767 provides for the utilization of the Port by PVC as its published, regularly scheduled Northern California port of call. In consideration, PVC will pay less than 100 percent of all wharfage and dockage charges, as follows: Container wharfage will be assessed on a sliding scale (per TEU basis); breakbulk wharfage will be charged on a fixed rate per ton. All other tariff charges will stay the same. The term of the agreement shall commence on the first day of the month following the determination of its effective date by the Commission, and it will run for five years.

Dated: June 12, 1985.

By Order of the Federal Maritime Commission.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-14446 Filed 6-14-85; 8:45 am]

BILLING CODE 6730-01-M

Filing and Effective Date of Agreement

The Federal Maritime Commission hereby gives notice, that on June 6, 1984, the following agreement was filed with the Commission pursuant to section 5, Shipping Act of 1984, and was deemed effective that date, to the extent it constitutes an assessment agreement as described in paragraph (d) of section 5, Shipping Act of 1984.

Agreement No.: 201-000082-007.

Title: West Gulf Marine Association Assessment Agreement.

Parties:

West Gulf Marine Association (WGMA)

International Longshoremen's Association—AFL-CIO (ILA)

Synopsis: The amendment provides for an extension of the cargo assessment provided for in the West Gulf Maritime association Resolution of December 4, 1984, until December 31, 1985. The resolution provides for an assessment calculated on the basis of tonnage handled in the Ports of the West Gulf; the assessment will continue to be known as the guaranteed Annual Income Program and Fringe Benefits Contract Administration Assessment; it is the responsibility of the employee of labor under the bargaining agreements between the WGMA and the ILA to remit the assessment to the WGMA; the assessment is to be collected by the WGMA and administered by the WGMA to meet its obligations under the

various agreements existing between it and the ILA.

Dated: June 12, 1985.

By Order of the Federal Maritime Commission

Bruce A. Dombrowski,

Acting Secretary

[FR Doc. 85-14445 Filed 6-14-85; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM**First Interstate Corporation of Wisconsin et al.; Formation of; Acquisitions by; and Mergers of Bank Holding Companies**

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than July 8, 1985.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Interstate Corporation of Wisconsin*, Sheboygan, Wisconsin; to acquire 86 percent of the voting shares of The American National Bank and Trust Company of Eau Claire, Eau Claire, Wisconsin.

2. *Marisub of Wisconsin, Inc.*, Milwaukee, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Firststar Corporation, Appleton, Wisconsin, thereby indirectly acquiring the following banks: Firststar Bank, N.A.,

Appleton; Firststar Bank Seymour, N.A., Seymour; Firststar Bank Clintonville, N.A., Clintonville; Firststar Bank Freedom, Freedom; Firststar Bank DePere, DePere; Firststar Bank Larsen, Larsen; Firststar Bank Campbellsport, Campbellsport; and Firststar Bank Oshkosh, N.A., Oshkosh, all located in Wisconsin.

B. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Thompson Financial, LTD*, Fort Worth, Texas; to acquire 100 percent of the voting shares of First State Bank, Grand Prairie, Texas.

2. *Texas Security Bancshares, Inc.*, Fort Worth, Texas; to acquire 100 percent of the voting shares of First State Bank.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *American Foreign Exchange Bancorp.*, Los Angeles, California; to become a bank holding company by acquiring 100 percent of the voting shares of American Foreign Exchange Bank, N.A., Los Angeles, California (in organization).

Board of Governors of the Federal Reserve System, June 11, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-14411 Filed 6-14-85; 8:45 am]

BILLING CODE 6210-01-M

Marion National Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to require or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will have also be available for inspection at the offices of the Board of Governors. Interested persons may

express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts or interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 8, 1985.

A. Federal Reserve Bank of Richmond
(Lloyd W. Bostian, Jr., Vice President)
701 East Byrd Street, Richmond, Virginia 23261:

1. *Marion National Corporation*, Marion, South Carolina, through a wholly-owned subsidiary, Marion National Investment Corporation, Marion, South Carolina; to acquire Gasque-Clemmons Agency, Inc., Marion, South Carolina, thereby indirectly engaging in general insurance agency activities, other than the sale of life insurance and annuities. These activities would be performed in the State of South Carolina.

Board of Governors of the Federal Reserve System, June 11, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-14412 Filed 6-14-85; 8:45 am]

BILLING CODE 6210-01-M

MC Corp Financial, Inc.; Correction

This notice corrects a previous Federal Register document (FR Doc. No. 85-13477), published at page 23766 of the issue for Wednesday, June 5, 1985. MC Corp, Dallas, Texas and MC Corp Financial, Inc., Wilmington, Delaware should have been listed as co-applicants.

Board of Governors of the Federal Reserve System, June 11, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-14413 Filed 6-14-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Safety and Occupational Health Study Section; Meeting

Pursuant to Pub. L. 92-463, a meeting of the Safety and Occupational Health Study Section, National Institute for Occupational Safety and Health, in conjunction with the Division of Research Grants, will be held on June 19-21, 1985, at the Colonial Manor Motel, 11410 Rockville Pike, Rockville, Maryland 20852. This notice is being published late due to the fact that the notice of this meeting was inadvertently omitted from the list of study section meetings previously published.

This meeting will be open to the public on June 19 from approximately 8:30 a.m. to 9:30 a.m., to discuss program policies and issues. Attendance by the public is limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92-463, the meeting of the Study Section will be closed to the public from 9:30 a.m., June 19, until adjournment on June 21 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Grants Inquiries Office, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496-7441, will furnish summaries of the meetings and rosters of committee members.

Dr. Richard A. Rhoden, Executive Secretary of the Study Section, Westwood Building, Room 3A10, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496-6723, will furnish substantive program information.

(Catalog of Federal Domestic Assistance program Nos. 13.262, Occupational Safety and Health Research Grants, National Institutes of Health, HHS)

Dated: June 12, 1985.

Betty J. Beveridge,

NIH Committee Management Center.

[FR Doc. 85-14675 Filed 6-14-85; 11:41 am]

BILLING CODE 4140-01-M

Public Health Service

Agency for Toxic Substances and Disease Registry; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HT (Agency for Toxic Substances and Disease Registry) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (48 FR 17652, dated April 25, 1983) is amended to revise the mission statement and to reflect the recently approved internal organizational substructure within the Agency for Toxic Substances and Disease Registry. The mission statement is being revised to include new responsibilities mandated by the Hazardous and Solid Waste Amendments of 1984 to the Resource Conservation and Recovery Act (RCRA) provisions of the Solid Waste Disposal Act (42 U.S.C. 6901 *et seq.*). The Centers for Disease Control will provide administrative support for the Agency for Toxic Substances and Disease Registry.

Section HT-00 Mission, and *Section HT-20 Functions* are hereby deleted in their entirety and the following substituted:

Section HT-A Mission. The mission of the Agency for Toxic Substances and Disease Registry (ATSDR) is to carry out the health-related responsibilities of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) and the Resource Conservation and Recovery Act (RCRA) provisions of the Solid Waste Disposal Act, relating only to CERCLA and RCRA sites and substances found at those sites. ATSDR works closely with State, local, and other Federal agencies to reduce or eliminate illness, disability, and death resulting from exposure of the public and workers to toxic substances at spill and waste disposal sites.

To accomplish its mission, ATSDR determines the extent of danger to the public health from a release or threat or release of a hazardous substance by conducting a health assessment of the situation; establishes and maintains disease and exposure registries; establishes and maintains an inventory of information on health effects of toxic substances; maintains a listing of areas closed or otherwise restricted to the public because of toxic substances contamination; consults and coordinates with private or public health care providers in the provision of medical care and testing; conducts survey and screening programs to determine relationships between exposure and

illness; conducts health assessments of currently regulated landfills and surface impoundment sites; assists the Environmental Protection Agency (EPA) in identifying hazardous waste substances to be regulated; and issues periodic reports, including peer reviewed assessments.

Section HT-B, Organization and Functions. The Agency for Toxic Substances and Disease Registry is under the direction of an Administrator who reports to the Assistant Secretary for Health. The Centers for Disease Control will provide administrative support for the Agency for Toxic Substances and Disease Registry. The agency consists of the following major components, with functions indicated:

Office of the Administrator (HTA). (1) Manages and directs the activities of the Agency for Toxic Substances and Disease Registry (ATSDR); (2) provides leadership for the implementation of ATSDR's CERCLA and RCRA health-related responsibilities; (3) approves ATSDR's goals and objectives; (4) coordinates ATSDR's interagency and outside group activities; (5) provides overall policy direction to the scientific/medical programs of ATSDR; (6) plans and promotes an ongoing program to assure equal employment opportunities in ATSDR; (7) provides leadership and assessment of administrative management activities; (8) assures coordination with the appropriate PHS staff offices on administration and program matters.

Office of the Associate Administrator (HTB). (1) Within the overall policy and guidance of the Administrator, plans, directs, and evaluates the CERCLA and RCRA health-related program activities of ATSDR; (2) develops goals and objectives and provides leadership, scientific oversight, and guidance in budget and program planning and development; (3) coordinates ATSDR emergency response, health assessment, and risk assessment activities; (4) coordinates ATSDR-wide program management and administrative support for ATSDR's requirements, including budget development; (5) directs field activities; (6) advises the Administrator, ATSDR, on policy matters concerning ATSDR activities.

Office of External Affairs (HTB2). (1) Participates in developing both long-range (multi-year) and annual plans and budgets for ATSDR; (2) participates in preparing ATSDR's annual budget submissions and supporting documents; (3) participates in the review, preparation, and coordination of legislation, Congressional testimony, briefing documents, and other legislative matters; (4) participates in providing

administrative, fiscal management, and support services, including review and evaluation of interagency agreements, cooperative agreements, contracts, and other agreements; (5) participates in developing and implementing all EPA/ATSDR Interagency Agreements formulated under either CERCLA or RCRA, including those agreements issued to conduct health studies; (6) maintains liaison with the EPA and other Federal, State, and local agencies, institutions, and organizations involved in CERCLA and RCRA activities and responsibilities; (7) assists in coordinating provision of specialized technical and managerial assistance and consultation to Federal, State, and local agencies, and private organizations on eliminating or mitigating public health problems resulting from environmental causes; (8) serves as the convener for all external peer review activities; (9) establishes and maintains a listing of areas closed or restricted in use to the public because of toxic substance contamination; (10) ensures that the following CERCLA health related activities are in compliance with the provisions of CERCLA and, where appropriate, with the provisions of applicable interagency agreements: (a) laboratory service and technology development; (b) exposure and health outcome studies, registries, and surveillance systems; (c) worker safety and health activities; (d) activities related to the establishment and maintenance of a comprehensive and publicly accessible inventory of literature, research, and studies on the health effects of toxic substances; and (e) toxicology testing (in vitro or in vivo animal studies).

Office of Health Assessment (HTB3). (1) Serves as the focal point for coordinating all activities associated with emergency response to toxic and environmental disasters; (2) coordinates and provides health consultations on the provision of medical care and testing of exposed individuals (including the collection and laboratory analysis of specimens) to private or public health care providers in cases of public health emergencies; (3) determines the extent of danger to the public health from a release or threat of release of a hazardous substance at Superfund or RCRA sites by conducting a health assessment of the situations when appropriate; (4) provides technical assistance and consultation on request to Federal, State, local agencies, and other organizations on public health/scientific matters related to CERCLA and RCRA sites; (5) provides health consultation services related to the potential health threat at Superfund and

RCRA sites, including review of laboratory data and sampling strategy including, as appropriate, quality assurance and control issues; (6) reviews or develops from existing scientific and technical information generic risk estimates (the nature and magnitude of human risk, including attendant uncertainty) for toxic substances; (7) develops site or incident specific risk estimates based upon existing scientific and technical information in support of emergency or nonemergency response activity.

Dated: June 11, 1985.

Margaret M. Heckler,
Secretary.

[FR Doc. 14431 Filed 6-14-85; 8:45 am]

BILLING CODE 4160-18-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-85-1537]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Fishman, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently

information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: HUD Supplemental EEO-4 Form

Office: Fair Housing and Equal Opportunity

Form No. EEO-4

Frequency of submission: Annually

Affected public: State or Local

Governments and Federal Agencies or Employees

Estimated burden hours: 1,165

Status: Reinstatement

Contact: I. Toni Thomas, HUD, (202) 755-6540, Robert Fishman, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 3, 1985.

Proposal: Tenant Data Summary

Office: Public and Indian Housing

Form No.: HUD-50058

Frequency of submission: On occasion

Affected public: State or Local

Governments

Estimated burden hours: 2,421,000

Status: New

Contact: Joyce Ann Bassett, HUD, (202) 426-0744, Robert Fishman, OMB, (202) 395-7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 6, 1985.

Proposal: Interstate Land Sales

Registration—Statement of Facts and Supplements to Statement of Facts

Office: Housing

Form No.: None

Frequency of submission: On Occasion

Affected public: Businesses or Other For-Profit and Small Businesses or Organizations

Estimated burden hours: 450

Status: Revision

Contact: Roger G. Henderson, HUD, (202) 755-0502, Robert Fishman, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: May 29, 1985.

Proposal: Multifamily Insurance Benefits Claims Package

Office: Administration

Form No.: HUD-2744A thru 2744E

Frequency of submission: On Occasion

Affected public: State or Local

Governments and Businesses or Other For-Profit

Estimated burden hours: 900

Status: Extension

Contact: Eugene Morroni, HUD (202) 755-7523, Robert Fishman, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 7, 1985.

Proposal: National Recognition Program for Community Development

Partnerships (Entry Form)

Office: Community Planning and Development

Form No.: HUD-40002

Frequency of submission: On Occasion

Affected public: State or Local

Governments, Businesses or Other For-Profit, and Non-Profit Institutions

Estimated burden hours: 1,000

Status: Extension

Contact: Charles Bien, HUD, (202) 755-6300, Robert Fishman, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 7, 1985.

Dennis F. Geer,

Director, Office of Information Policies and Systems.

[FR Doc. 85-14436 Filed 6-14-85; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Fairbanks District Advisory Council; Meeting

The Advisory Council for the Fairbanks District of the Bureau of Land Management will have a general meeting on Wednesday, July 17, 1985.

The location of the meeting will be second-floor training room at the BLM office on Ft. Wainwright, 1541 Gaffney Road. The meeting will convene at 8:30 a.m. and conclude at 5 p.m. Public comments will be received by the Council from 1 p.m. to 2 p.m.

The following topics will be discussed at the meeting.

1. Teshekpuk Special Area Study Update.
2. Central Yukon Draft Plan.
3. Futuring in BLM/Alaska.
4. CFR 3809 Policy.
5. CFR 3500 Regulations.

All meetings of the Council are open to the public.

Don Runberg,

Acting District Manager.

[FR Doc. 85-13763 Filed 6-14-85; 8:45 am]

BILLING CODE 4310-JA-M

[W-71890]

Wyoming; Proposed Continuation of Withdrawal

Correction

In FR Doc. 85-13310 appearing on page 23530 in the issue of Tuesday June 4, 1985, make the following correction: In the second column, under **Sixth Principal Meridian**, T. 29N., R. 83W., the entry for "Sec. 21" should read "N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$."

BILLING CODE 1505-01-M

Availability of Coal Core Analyses and Geophysical Logs; Worland BLM District, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Notice of Availability of Four Coal Analyses and eleven Geophysical Logs within the Big Horn Basin, Big Horn and Washakie Counties, Wyoming.

SUMMARY: Notice is hereby given that four coal core analyses and eleven geophysical logs from eleven test holes located in the Big Horn Basin, Big Horn and Washakie Counties, Wyoming are now available to the public.

The Big Horn County test holes, located in Township 49 North, Range 92 West; township 59 North, Ranges 92 and 93 West; and Township 51 North, Range 93 West were designed to investigate the coal beds in the Paleocene Fort Union and the late Cretaceous Mesaverde formations in the Big Horn Basin.

The Washakie County test holes, located in Township 45 North, Range 89 West; Township 46 North, Ranges 89

and 90 West; and Township 48 North, Range 91 West were also designed to investigate the coal beds in the Paleocene Fort Union and late Cretaceous Mesaverde formations in the Big Horn Basin.

ADDRESS: The geophysical logs and core analyses are available for reproduction at cost. Contact: Tom Lonnie, Assistant District Manager, Division of Minerals, Bureau of Land Management, P.O. Box 119, Worland, Wyoming 82401. Telephone (307) 347-9871.

Chester E. Conard,
District Manager.

[FR Doc. 85-14482 Filed 6-14-85; 8:45 am]

BILLING CODE 4310-22-M

[U-54557]

Realty Action; Sale of Public Lands in Iron County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Under section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713) public land described as the NE $\frac{1}{4}$ NW $\frac{1}{4}$, sec. 18, T. 33 S., R. 15 W., SLB&M, Utah, containing 40 acres is proposed for sale by modified competitive bidding at no less than the appraised fair market value of \$3000.00. The lands described are hereby segregated from all forms of appropriation under the public land laws, including the mining laws, pending disposition of this action. The Church of Jesus Christ of Latter Day Saints will be given the opportunity to meet the high bid because of adjoining land ownership. Failure of the Church to accept the offer and submit the required amount shall constitute a waiver of this preference consideration.

SUMMARY: The purpose of this sale is to dispose of public land that is difficult and uneconomical to manage by a government agency.

DATES: Comments should be submitted to the address listed below by August 6, 1985. The sale will be held on August 27, 1985 at 10:00 a.m.

ADDRESS: Detailed information concerning the sale, including bidding procedures, is available at the Beaver River Resource Area Office, 444 South Main, Cedar City, Utah 84720 (801) 588-2458. The sale will be held at the same address.

SUPPLEMENTARY INFORMATION: The terms and conditions applicable to the sale are:

1. The sale will be for the surface estate only. Minerals will remain with the United States Government.

2. There is reserved to the United States, a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

3. Title transfer will be subject to valid existing rights including Oil and Gas Lease U-32828.

4. If the tract of public land is not sold pursuant to this notice, it will remain available for sale on a continuing basis until sold or until withdrawn from the market.

Any comments or objections received during the comment period will be evaluated and the District Manager may vacate or modify this realty action. In the absence of any objections, this realty action notice will be the final determination of the Department of the Interior.

Dated: June 7, 1985.

Morgan S. Jensen,
District Manager.

[FR Doc. 85-14481 Filed 6-14-85; 8:45 am]

BILLING CODE 4310-DQ-M

[U-54709]

Segregation of Public Land in Grand County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Segregation of Public Lands in Grand County, Utah; U-54709.

SUMMARY: Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211-214) the county of Grand, Utah, has applied for an airport lease for the following described lands:

LEGAL DESCRIPTION

| | Acreage |
|--|---------|
| T. 24 S., R. 19 E., SLBM, Sec. 1, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ | 120 |
| T. 24 S., R. 20 E., SLBM, Sec. 6, lots 2, 4, 5, SW $\frac{1}{4}$ NE $\frac{1}{4}$ | 152.19 |

The purpose of this notice is to inform the public that the filing of this application on June 5, 1985 segregates the described land from all other forms of use or disposal under the public land laws, including the mining laws, but not the mineral leasing laws.

Interested persons wishing to comment should do so immediately to the Area Manager, P.O. Box M, Moab, UT, 84535 (phone) 801-259-8193.

Dated: June 6, 1985.

Gene Nodine,
District Manager.

[FR Doc. 85-14480 Filed 6-14-85; 8:45 am]

BILLING CODE 4310-DQ-M

INTERSTATE COMMERCE COMMISSION

Aero Mayflower Transit Company Predetermined Price Protection Tariff Item; Hearing and Sunshine Act Meeting Cancelled

AGENCY: Interstate Commerce Commission.

ACTION: Cancellation of Oral Hearing and Open Special Conference.

SUMMARY: At 50 FR 21516, 5-24-85, as modified at 50 FR 23201, 5-31-85 and corrected at 50 FR 23365, 6-3-85, the Commission announced that an oral hearing would be held on the rejection of Aero Mayflower's Predetermined Price Protection Tariff, on June 19, 1985. At 50 FR 24717, 6-12-85, the Commission also announced an open special conference on this matter for June 19, 1985. Both the oral hearing and open special conference have been cancelled.

FOR FURTHER INFORMATION CONTACT:

Neil S. Llewellyn, (202) 275-7348;
Charles E. Langyher, (202) 275-7739.

This notice is issued under authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: June 13, 1985.

By the Commission.

James H. Bayne,
Secretary.

[FR Doc. 85-14655 Filed 6-14-85; 10:02 am]

BILLING CODE 7035-01-M

[Docket No. AB-6, Sub-250X]

Burlington Northern Railroad Co.—Abandonment—in Clatsop County, OR, Exemption; Correction

Burlington Northern Railroad Company (BN) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—Exempt Abandonments to abandon its 6.67-mile line of railroad between milepost 101.92 near Astoria and milepost 108.59 near Camp Clatsop, in Clatsop County, OR.

BN has certified (1) that no local traffic has moved over the line for at least 2 years and that any overhead traffic on the line can be rerouted over other lines, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period preceding this notice. The appropriate State agency has been notified in

writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective on July 7, 1985, (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by June 17, 1985, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by June 27, 1985, with:

Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

A copy of any petition filed with the Commission must be sent to applicant's representative:

Peter M. Lee, 3800 Continental Plaza, 777 Main Street, Fort Worth, TX 76102.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: June 12, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,
Secretary.

[FR Doc. 85-14645 Filed 6-14-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-28; Sub-9X]

Central of Georgia Railroad Co. Abandonment Exemption; in Savannah, GA

Applicant has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon its 1,020 foot line of railroad between milepost S-0.68 and milepost S-0.87 in Savannah, GA.

Applicant has certified (1) that no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line, and (2) that no formal complaint filed by a user or rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective July 17, 1985 (unless stayed pending reconsideration). Petitions to stay must be filed by June 27, 1985, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by July 8, 1985, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Nancy S. Fleischman, Suite 740, 1050 Connecticut Avenue, N.W., Washington, DC 20036.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: June 6, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,
Secretary.

[FR Doc. 14552-85 Filed 6-14-85; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30655]

Tangent Transportation Co.; Modified Rail Certificate

June 7, 1985.

On April 16, 1985 as amended June 4, 1985, a notice was filed by Tangent Transportation Company (Tangent), for a modified rail certificate of public convenience and necessity under 49 CFR Part 1150, Subpart C to operate a line of trackage from Yamassee (MP 443.26) to Port Royal (MP 468.31) in Beaufort County, SC. This line of railroad had formerly been owned and operated by Seaboard System Railroad, Inc. (SBD). In Docket No. AB-55 (Sub-No. 100), served August 23, 1984, the Commission authorized SBD to abandon this line.

The South Carolina State Ports Authority, a political subdivision of the State of South Carolina, has acquired the line and has leased the line to the South Carolina Public Railways Commission (Commission). Tangent, a wholly-owned subsidiary of the Commission, will operate the line, beginning May 1, 1985. The railroad will be known as the Port Royal Railroad and will connect with SBD at Yamassee.

This notice will be served upon the Association of American Railroads (Car Service Division) as agent of all railroads subscribing to the car-service and car-hire agreements, and upon the American Short Line Railroad Association.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,
Secretary.

[FR Doc. 85-14433 Filed 6-14-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to section 512 of the Employee Retirement Income Security Act of 1974 (ERISA) 29 U.S.C. 1142, a public meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9:30 a.m., on Friday, June 28, 1985, in Conference Room N-3437-D, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C.

The purpose of the meeting is to discuss the following items on the tentative Agenda summarized below:

ERISA Enforcement Working Group

Report

Welfare Benefit Plans

ERISA Advisory Council Activity

Individuals or organizations wishing to submit written statements pertaining to the items on the Agenda should send 20 copies to Edward F. Lysczek, Executive Secretary, ERISA Advisory Council, 200 Constitution Avenue NW., Washington, D.C. 20210. Telephone (202) 523-8753. Papers will be accepted and included in the record of the meeting if received on or before June 26, 1985.

Signed at Washington, D.C., this 12th day of June, 1985.

Alan D. Lebowitz,

Acting Administrator, Office of Pension and Welfare Benefit Programs.

[FR Doc. 85-14434 Filed 6-14-85; 8:45 am]

BILLING CODE 4510-29-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed public

meetings of the ACRS Subcommittees and meetings of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published May 21, 1985 (50 FR 20963). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the *Federal Register* approximately 15 days (or more) prior to the meeting. It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the July 1985 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634-3265, ATTN: Barbara Jo White) between 8:15 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

Human Factors, June 20, 1985, Washington, DC. The Subcommittee will identify real/or perceived problems with operator requalification process, decide on an appropriate action plan to resolve them, and make the necessary recommendations to the Committee.

Quality and Quality Assurance in Design and Construction/Watts Bar, June 26, 1985, Washington, DC. The Subcommittees will discuss the Black & Veatch IDP Report on the AFW System at Watts Bar. The Subcommittees will also discuss the Independent Design Policy Group and NSRS evaluations of those reports as well as recent allegations concerning construction and design at Watts Bar.

Class 9 Accidents, July 2, 1985—Postponed.

Reactor Operations, July 9, 1985, Washington, DC. The Subcommittee will discuss recent operating occurrences.

Long Range Plan for NRC, July 10 and 11, 1985, Washington, DC. The Subcommittee will continue discussions on developing comments on a long range plan for the NRC. Topics under discussion are primarily technical issues related to the regulation of nuclear power plant safety and safety regulation over the next 5 to 10 years.

Diablo Canyon, July 10, 1985, Washington, DC. The Subcommittee will review the NRC Staff's safety evaluation of PG&E's long-term seismic program plan for Diablo Canyon.

River Bend, July 10, 1985—Postponed.

Long Range Plan for NRC, July 11, 1985, Washington, DC. The Subcommittee will continue discussions on developing comments on a long range plan for the NRC. Topics under discussion are primarily technical issues related to the regulation of nuclear power plant safety and safety regulation over the next 5 to 10 years.

ATWS, July 17, 1985, Washington, DC. The Subcommittee will discuss reactor protection system and scram breaker reliability.

Vogtle Electric Generating Plant Units 1 & 2, July 18 and 19, 1985, Augusta, GA. The Subcommittee will begin review of Georgia Power Company's application for an operating license for Vogtle, Units 1 & 2.

Quality and Quality Assurance in Design and Construction, July 30, 1985, Washington, DC. The Subcommittee will: (1) Review the Final Rule on "The Important To Safety Issue," and (2) be briefed on the "NRC Quality Assurance Program Implementation Plan."

Joint ECCS and Fluid Dynamics, July 31, 1985, Washington, DC. The Subcommittees will: (1) Continue the review of the proposed revision to Appendix K of 10 CFR 50.46; (2) review the implementation of General Electric's Appendix K analysis effort; (3) review NRC's USI A-43 implementation proposal; (4) discuss the details of reactor coolant pump trip issue resolution; and (5) discuss the status of NRR's ongoing ECCS-related issues.

Metal Components, August 1, 1985, Washington, DC. The Subcommittee will review Regulatory Guide 1.99, Revision 2, and other related concerns, and discuss the status of the nil-ductility temperature of piping program and the HSST program.

Class 9 Accidents, August 2, 1985 (tentative), Washington, DC. The Subcommittee will discuss with the NRC Staff and will continue the review of draft NUREG-0956 "Source Term Reassessment" and discuss a SECY paper describing regulatory initiatives related to the source term reassessment.

Long Range Plan for NRC, August 7, 1985, Washington, DC. The Subcommittee will continue discussions on developing comments on a long range plan for the NRC. Topics to be discussed are primarily technical issues related to the regulation of nuclear power plant safety and safety regulation over the next 5 to 10 years.

Joint ECCS and Fluid Dynamics, August 20, 1985, Washington, DC. The Subcommittee will review: (1) The status of the hydrodynamic loads issue for Mark I-III containment plants, and (2) the AEOD report on Interfacing LOCAs.

Joint Structural Engineering and Seismic Design of Piping, August 22 and 23, 1985 (tentative), Washington, DC. The Subcommittees will review the status of research programs on containment integrity, seismic margins, piping reliability, and other related matters.

Long Range Plan For NRC, September 11, 1985, Washington, DC. The Subcommittee will continue discussions on developing comments on a long range plan for the NRC. Topics to be discussed are primarily technical issues related to the regulation of nuclear power plant safety and safety regulation over the next 5 to 10 years.

Reliability Assurance, October 8, 1985, Washington, DC. The Subcommittee will continue discussions on valve reliability. A risk perspective on valve performance will be sought. Also to be studied is the importance of valves from a safety standpoint.

Long Range Plan For NRC, October 9, 1985, Washington, DC. The Subcommittee will continue discussions on developing comments on a long range plan for the NRC. Topics to be discussed are primarily technical issues related to the regulation of nuclear power plant safety and safety regulation over the next 5 to 10 years.

Qualification Program For Safety-Related Equipment, Date to be determined (July), Washington, DC. The Subcommittee will discuss NRC Staff resolution of USI A-46, "Seismic Qualification of Equipment in Operating Plants."

Reliability and Probabilistic Assessment, Date and location to be determined (August). The Subcommittees will review the probabilistic risk assessment for Millstone 3.

CESSAR II, Date (August) and location to be determined. The Subcommittee will continue its review of GESSAR II for a Final Design Approval applicable to future plants.

Advanced Reactors, Date to be determined (August/September), Washington, DC. The Subcommittee will discuss the proposed policy for regulation of advanced nuclear power plants.

ECCS, Date to be determined (late Summer), Palo Alto, CA. The Subcommittee will continue the review of the joint NRC/B&WOG/EPRI/B&W joint IST Program. A visit is planned to

the EPRI Stanford Research Institute facilities supporting this Program.

Joint Reactor Radiological Effects and Fire Protection. Date to be determined (October), Washington, DC. The Subcommittee will review the increased N-16 radioactivity and fire protection problems in using hydrogen addition to BWRs to reduce IGSCC.

ATWS. Date to be determined (October), Washington, DC. The Subcommittee will continue the review of the status of ATWS Rule implementation effort and related issues.

ACRS Full Committee Meeting

July 11-13, 1985: Items are tentatively scheduled.

A. Watts Bar Nuclear Plant Units 1 and 2—discuss quality assurance program and independent QA review.

B. Security Provisions to Preclude Sabotage at Nuclear Power Plants—discuss proposed ACRS comments/recommendations to the NRC.

C. Proposed Accident Source Term for Nuclear Power Plants—briefing of ACRS regarding related industry and NRC contractor studies.

D. General Electric Standardized Nuclear Steam Supply System (GESSAR II)—continue review of the FDA request for this type of standardized facility.

E. NRC Long Range Plans—discuss ACRS activities related to the proposed NRC long range plans for nuclear regulation and related activities

F. Nuclear Power Plant Operations—briefing and discussion of recent events at operating reactors.

G Meeting with NRC Commissioners—discuss ACRS report of June 10, 1985, regarding consideration of seismic events in off-site emergency planning.

H. Indian Point Nuclear Generating Station—discuss proposed comments regarding implementation of the probabilistic risk assessment for this station.

I. EPA Standards for High-Level Waste Repository—review proposed

ACRS comments and recommendations regarding these standards.

J. Emergency Preparedness for Fuel Cycle and Other Radioactive Material Licensees—review proposed emergency planning requirements for fuel cycle and other radioactive material licensees.

K San Onofre Nuclear Plant Unit No. 1—consider SEP review for this project.

L. Maintenance and Surveillance Program Plan—review proposed requirements for maintenance and surveillance programs at nuclear power stations.

M. Diablo Canyon Nuclear Plant Units 1 and 2—consider proposed plan for seismic reevaluation of this nuclear plant.

N. ACRS Subcommittee Activities—briefing and discussion regarding current ACRS subcommittee activities in assigned areas including ECCS, Air Systems in nuclear facilities, human factors, and maintenance practices and procedures, selection procedures for nuclear power plant operators, tests, evaluations, and requalification programs for nuclear power plant operators.

O. Quantitative Safety Goals—discuss proposed ACRS comments and recommendation regarding the review of the two-year trial period and proposed implementation plan.

P. Anticipated ACRS Activities—discuss anticipated ACRS subcommittee and proposed items for consideration of the full Committee.

Q ACRS Procedures and Practices—discuss proposed changes in ACRS Bylaws regarding conduct of individual ACRS members, procedures for revision of ACRS Bylaws, and make-up of the ACRS subcommittee on Waste Management.

R. Activities of ACRS Members—discuss related activities of individual members as nongovernment employees.

S. Foreign Regulatory Activities—briefing by ACRS members regarding meeting with foreign regulatory bodies.

August 8-10, 1985—Agenda to be announced.

September 12-14, 1985—Agenda to be announced.

Dated: June 12, 1985.

John C. Hoyle,
Advisory Committee Management Officer.
[FR Doc. 85-14506 Filed 6-14-85; 8:45 am]
BILLING CODE 7590-01-M

Applications for Licenses To Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application" please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. Copies of the applications are on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the *Federal Register*. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission, and the Executive Secretary, U.S. Department of State, Washington, D.C. 20520.

In its review of applications for licenses to export production or utilization facilities, special nuclear materials or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The table below lists all new major applications.

For the Nuclear Regulatory Commission.

Dated this 11th day of June 1985 at Bethesda, Maryland.

Marvin R. Peterson,
Acting Assistant Director, Export/Import and International Safeguards, Office of International Programs.

NRC EXPORT APPLICATIONS

| Name of applicant, date of application, date received, application No. | Material type (percent) | Material in kilograms (enriched uranium) | Total isotope | End-use | Country of destination |
|--|-------------------------|--|------------------|---------------------------|------------------------|
| | | Total element | | | |
| Transnuclear, Inc., May 7, 1985, May 7, 1985, XSNMO2216 | 93.3 | 218.545 | 203.902 | Fuel for THTR-300 Reactor | West Germany |
| Nishio Iwai American Corp., May 24, 1985, May 31, 1985, XSNMO1778, Amend. No. 02 | 45.4 | Additional 50.93 | Additional 22.92 | Fuel for JMTR | Japan |

[FR Doc. 85-14507 Filed 6-14-85; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission: new, revision or extension: Extension.
2. The title of the information collection: 10 CFR Part 150—Exemptions and Continued Regulatory Authority in Agreement States and in Offshore Waters under section 274
3. The form number if applicable: Not applicable.
4. How often the collection is required: Reports are required as occasioned by the occurrence of specified events, such as the receipt or transfer of licensed radioactive material, or actual or attempted theft of licensed material. An annual Statement of source material inventory is required.
5. Who will be required or asked to report: Agreement State licensees authorized to possess source or special nuclear material at certain types of facilities, or at any one time and location in amounts greater than specified amounts.
6. An Estimate of the number of responses: 63
7. An estimate of the total number of hours needed to complete the requirement or request: 150.
8. An indication of whether section 3504 (h), Pub. L. 96-511 applies: Not applicable.
9. Abstract: 10 CFR Part 150 provides certain exemptions from NRC regulations for persons in Agreement States. Part 150 also defines activities in Agreement States over which NRC regulatory authority continues, including certain information collection requirements.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 395-7340.

The NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland, this 11th day of June 1985.

For the Nuclear Regulatory Commission,

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 85-14509 Filed 6-14-85; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, FC 412-4 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Guide for the Preparation of Applications for Licenses for the Use of Radioactive Materials in Leak-Testing Services" and is intended for Division 10, "General." It is being developed to provide guidance in conformance with the revised NRC Form 313 for preparing license applications for the use of radioactive materials in leak-testing services.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in the area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, by August 15, 1985.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with: (1) Items for inclusion in guides currently

being developed; or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Silver Spring, Maryland this 10th day of June 1985.

For the Nuclear Regulatory Commission,

Denwood F. Ross,

Deputy Director Office of Nuclear Regulatory Research.

[FR Doc. 85-14508 Filed 6-14-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-275]

Pacific Gas and Electric Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendment to Facility Operating License No. DPR-80 issued to the Pacific Gas and Electric Company, the licensee, for the operation of the Diablo Canyon Nuclear Power Plant, Unit 1 located in San Luis Obispo, California.

In accordance with the licensee's application dated May 14, 1985, and which supersedes application dated January 30, 1985, the proposed change would revise Sections 4.8.1.1.2, 4.8.1.1.3 and 4.8.1.1.4 of the Diablo Canyon Unit 1 Technical Specifications, in "Electrical Power Systems, Surveillance Requirements" which specifies the surveillance test requirements for the fuel oil used by the emergency diesel generator at Diablo Canyon. Reliable diesel operation requires fuel oil that is substantially free of water and impurities. The present technical specification requires sampling of the fuel oil in the fuel storage tank quarterly to test for water and sediment, with

additional tests to determine water, sediment content and viscosity prior to adding new fuel to the storage tanks. A further test for insoluble contaminants is required within 2 weeks of adding new fuel to the storage tank.

The changes incorporate new surveillance requirements design to maintain the level of confidence in testing the quality of the diesel fuel oil. The proposed surveillance requirements provide for: (1) Checking and draining accumulated water from the day tanks monthly and after each extended diesel run; (2) monthly checking and draining of water from the underground fuel storage tank; (3) sampling new fuel oil and analyzing it for specific gravity, viscosity, flash point, appearance, and impurities prior to its addition to the storage tanks; and (4) testing a sample of stored fuel oil for particulate contaminants monthly.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The NRC staff proposes to determine that the proposed changes do not involve significant hazards considerations. In this regard, the Commission has provided guidance concerning the application of standards for determining whether or not a significant hazards consideration exists by providing certain examples (48 FR 14870) of amendments considered not likely to involve significant hazards considerations. Example (i) relates to a purely administrative change to the technical specifications: for example, a change to achieve consistency through the technical specifications, a correction of an error, or a change in nomenclature. Example (vi) relates to a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan:

For example, a change resulting from the application of a small refinement of a previously used calculational model or design method. The proposed changes are similar to these examples. On this basis, it is proposed that these changes do not involve significant hazards consideration. The following is a description of the proposed changes and how each is similar to one of the examples of 48 FR 14870.

Unit 1 and Unit 2 will, upon issuance of a full power license for Unit 2, have a combined set of technical specifications. The specification for Unit 2 diesel fuel oil surveillance now, and in the full power technical specifications, is the same as is proposed for Unit 1. Thus, this proposed change achieves consistency with the Diablo Canyon, Unit 2 Technical Specifications in this area, within the meaning of example (i). In addition, the proposed change provides new surveillance requirements for the diesel fuel oil which are consistent with the NRC Staff's present position related to testing of diesel fuel oil including Regulatory Guide 1.37. The proposed surveillance requirements maintain the level confidence in diesel fuel oil quality testing by providing acceptable alternate tests not required in the licensee's present technical specifications, and therefore can assure that the diesel fuel oil continues to satisfy its acceptance criteria. In this regard, such alternate requirements come within the meaning of example (vi) in that the requirements are clearly within all acceptable criteria of section 9.5.4 of the Standard Review Plan.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

By July 17, 1985, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rule of Practice for Domestic Licensing Proceedings" in

10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceedings; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under considerations. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene becomes parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final

determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If that final determination is that the amendment request involves no significant hazards determination, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to G. Knighton: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this *Federal Register* Notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, to Philip A. Crane, Esq., Richard F. Locke, Esq., Pacific Gas & Electric Company, P.O. Box 7442, San Francisco, California 94120 and to Bruce Norton, Esq., Norton, Burke, Berry and

French, P.O. Box 10569, Phoenix, Arizona 85064.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer of the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. The determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the California Polytechnic State University Library, Documents and Maps Department, San Luis Obispo, California 93407.

Dated at Bethesda, Maryland, this 11th day of June, 1985.

For The Nuclear Regulatory Commission.
George W. Knighton,
Chief Licensing Branch No. 3 Division of
Licensing.

[FR Doc. 85-14510 Filed 6-14-85; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, July 11, 1985
Thursday, July 18, 1985
Thursday, July 25, 1985

These meetings will start at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, N.W., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives from five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives from five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under

subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

These scheduled meetings will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations, and related activities. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chairman on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, N.W., Washington, DC 20415 (202) 632-9710.

William B. Davidson, Jr.,
Chairman, Federal Prevailing Rate Advisory
Committee.

June 12, 1985.

[FR Doc. 85-14514 Filed 6-14-85; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

New.

Attorney Supplement to SF 171.
No. 270-277.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance the Commission's Attorney Supplement to Standard Form 171.

Submit comments to OMB Desk Officer: Ms. Katie Lewin, (202) 395-7231. Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

Shirley E. Hollis,
Assistant Secretary.

June 10, 1985.

[FR Doc. 85-14430 Filed 6-14-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. I.A.-980 (803-47)]

John Hancock Venture Capital Management, Inc.; Application for Order Permitting Performance Based Investment Advisory Fees

June 11, 1985.

Notice is hereby given that John Hancock Venture Capital Management, Inc. ("Applicant"), John Hancock Place, P.O. Box 111, Boston, Mass. 02117, a registered investment adviser under the Investment Advisers Act of 1940 ("Act"), filed an application on February 21, 1985 and amendments thereto on May 22 and May 31, 1985, requesting an order of the Commission pursuant to section 206A of the Act: (1) Exempting Applicant's proposed performance fee arrangements with certain limited partnerships to be organized by Applicant from the prohibitions of section 205(1) of the Act, and (2) exempting Applicant from the record-keeping requirements of Rule 204-2 (b) and (c) under the Act to the extent necessary to permit Applicant to maintain the required books and records for each limited partnership rather than for each limited partner in the partnership. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and rules thereunder for the relevant statutory provisions.

Applicant represents that it is an indirect, wholly-owned subsidiary of John Hancock Mutual Life Insurance Company ("John Hancock"). John Hancock offers a wide variety of individual and group life and health insurance policies, individual annuities and group pension products and provides additional financial services through various subsidiaries. According

to the application, as of the end of 1983, John Hancock ranked as the sixth largest insurance company in the United States in terms of total assets and the sixth largest in terms of life insurance in force.

Applicant plans to organize several different limited partnerships ("Funds") in which, depending on the nature of the Fund, (i) Applicant or (ii) a partnership composed of Applicant and employees of Applicant or of an affiliate of Applicant (in either case, a "General Partner") will be the general partner. Applicant states that the Funds will be structured so as to be exempt from registration as investment companies under section 3(c)(1) of the Investment Company Act of 1940. Applicant states that each General Partner will contribute at least one percent of the committed capital of its respective Fund. Applicant represents that the General Partner of each Fund will have the exclusive authority and responsibility for the selection of investments and the management of the Fund and will generally devote substantial time and resources to the operation of the Fund. It is anticipated that the partners, employees and certain affiliates of the General Partners will become actively involved in the management of some of the companies in which the Funds invest. Applicant states that the minimum capital contribution of each limited partner or group of affiliated limited partners in a Fund will be \$1,500,000. Interests in each Fund will only be offered in a manner as to be exempt, in the opinion of counsel, from registration under section 4(2) of the Securities Act of 1933, as amended, and will only be offered and sold to persons who in the opinion of the General Partner are able to appreciate and evaluate the nature and effects of a performance-based compensation arrangement. Applicant represents that the General Partner will not enter into a limited partnership agreement unless immediately prior to entering into the agreement it reasonably believes that such agreement represents an arm's length arrangement between the parties and that the limited partner, alone or with its legal representative or other independent agents, understands the risks of the proposed method of compensation. Interests in the Funds will not be sold to any investment company as defined in the Act or to any business development company as defined in the Act.

Applicant represents that the General Partner's share of the profits of a Fund may be based not only on its invested capital but also on a percentage of such profits which may vary from Fund to

Fund and will be established in negotiations with the limited partners of each Fund, having due regard for the performance fees then prevailing for similarly situated investment vehicles ("Performance Fee"). The limited partnership agreement for each Fund will set forth the formula for the allocation of profits and losses of such Fund. In all cases, however, the allocation formula for each Fund will include, in the case of securities for which market quotations are readily available, the realized gains and losses and unrealized appreciation and depreciation of such securities over any given period. In the case of securities for which market quotations are not readily available, the allocation formula for each Fund will include the net of realized gains over realized losses of such securities over any given period and, if the unrealized appreciation of the securities over the period is included in the allocation formula, the unrealized depreciation of such securities over the period will also be included in the allocation formula. The limited partnership agreement for each Fund will describe the method by which the assets of the Fund will be valued and the extent to which, if any, such asset valuations will be subject to independent determination or confirmation.

It is further stated that as an additional protection for the limited partners, no Performance Fee may be allocated to the General Partner for any given period if, at the end of the period, the cumulative amount of losses of a Fund for that period and all prior periods exceeds the cumulative amount of gains for that period and all prior periods provided that if the General Partner is entitled to a Performance Fee with respect to the gains generated only by a designated portion of the securities of a Fund, then the Performance Fee will be based on the gains and losses of such designated securities, rather than the gains and losses of the entire Fund. Furthermore, except to the extent necessary to enable the General Partner (or its partners) to pay income taxes imposed on income of the Fund allocated to the General Partner, no distribution may be made to the General Partner that would reduce the General Partner's capital account below zero. In addition to the Performance Fee, the Applicant expects that each Fund will pay the General Partner, or an affiliate, a management fee to cover certain administrative expenses incurred in the operation of the Fund, which will be established in negotiations with the limited partners of each Fund.

Applicant asserts that in the absence of an exemption under section 200A of the Advisers Act, the allocations and distributions of Performance Fees by any of the Funds to the Applicant, either directly as a General Partner or indirectly as a general partner of the General Partner of a Fund, would be in violation of section 205(1) of the Act. Applicant contends that investors who have the ability to invest a minimum of \$1,500,000 in a Fund are capable of evaluating the merits and risks of the proposed method of compensation, are capable of bearing the risks inherent in the Funds and are in a position to engage such legal advisers and other professional consultants as they may deem necessary to analyze the terms of their participation in a Fund and to protect their interests.

Applicant also seeks exemption from section 204 of the Act and Rule 204-2 (b) and (c) thereunder which may be interpreted so as to require Applicant to maintain designated books and records for each limited partner of a Fund. The Applicant proposes to maintain the designated books and records for a Fund but not for the individual limited partners. Each partnership agreement of a Fund will provide, however, that the General Partner of such Fund will maintain a separate capital account for each limited partner, reflecting each such partner's capital contributions, allocations and distributions. Applicant contends it would be impractical and unduly burdensome to prepare and maintain all of the designated books and records for each limited partner individually and that the purposes of the rule are amply served by maintaining separate capital accounts for each partner. Applicant states it will comply with all other applicable provisions of Rule 204-2.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than July 8, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-14424 Filed 6-14-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22126; File No. SR-MSRB-85-14]

Self-Regulatory Organizations; Proposed Rule Change by the Municipal Securities Rulemaking Board; Relating to CUSIP Numbers

The Municipal Securities Rulemaking Board on May 17, 1985, filed with the Securities and Exchange Commission pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

A. The Municipal Securities Rulemaking Board (the "Board") is filing amendments to rule G-34 on CUSIP numbers (hereafter referred to as "the proposed rule change"), as follows:¹

Rule G-34. CUSIP Numbers.

(a) New Issue Securities

(i) Assignment of Numbers

(A) Except as otherwise provided in this section (a), each municipal securities broker or municipal securities dealer who acquires, whether as principal or agent, a new issue of municipal securities from the issuer of such securities for the purpose of distributing such new issue shall apply in writing to the Board or its designee for assignment of a CUSIP number or numbers to such new issue. The municipal securities broker or municipal securities dealer shall make such application as promptly as possible, but in no event later than, in the case of competitive sales, the business day following the date of award, or, in the case of negotiated sales, the business day following the date on which the contract to purchase the securities from the issuer is executed. The municipal securities broker or municipal securities dealer shall provide to the Board or its designee the following information:

[[A]] (1) complete name of issue and series designation, if any;

[[B]] (2) interest rate(s) and maturity date(s) (provided, however, that, if the interest rate is not established at the time of application, it may be provided at such time as it becomes available);

[[C]] (3) dated date;

[[D]] (4) type of issue (e.g., general obligation, limited tax or revenue);

[[E]] (5) type of revenue, if the issue is a revenue issue;

[[F]] (6) details of all redemption provisions;

[[G]] (7) the name of any company or other person in addition to the issuer obligated, directly or indirectly, with respect to the debt service on all or part of the issue (and, if part of the issue, an indication of which part); and

[[H]] (8) any distinction(s) in the security or source of payment of the debt service on the issue, and an indication of the part(s) of the issue to which such distinction(s) relate.

[[i]] (B) The information required by subparagraph (i) (A) of this section (a) shall be provided in accordance with the provisions of this subparagraph. At the time application is made the municipal securities broker or municipal securities dealer making such application shall provide to the Board or its designee a copy of a notice of sale, official statement, legal opinion, or other similar documentation prepared by or on behalf of the issuer, or portions of such documentation, reflecting the information required by this section (a). Such documentation may be submitted in preliminary form if no final documentation is available at the time of application. In such event the final documentation, or the relevant portions of such documentation, reflecting any changes in the information required by this section (a) shall be submitted when such documentation becomes available. If no such documentation, whether in preliminary or final form, is available at the time application for CUSIP number assignment is made, such copy shall be provided promptly after the documentation becomes available.

[[iii]] (C) The provisions of this section (a) shall not apply with respect to any new issue of municipal securities on which the issuer or a person acting on behalf of the issuer has submitted an application for assignment of a CUSIP number or numbers to such issue to the Board or its designee.

(D) In the event that the proceeds of the new issue will be used, in whole or in part, to refund an outstanding issue or issues of municipal securities in such a way that part but not all of the outstanding issue or issues previously

¹ Italics indicate new language; [brackets] indicate deletions.

assigned a single CUSIP number is to be refunded to one or more redemption date(s) and price(s) (or all of an outstanding issue is to be refunded to more than one redemption date and price), the municipal securities broker or municipal securities dealer shall apply in writing to the Board or its designee for a reassignment of a CUSIP number to each part of the outstanding issue refunded to a particular redemption date and price and shall provide to the Board or its designee the following information on the issue or issues to be refunded:

- (1) the previously assigned CUSIP number of each such part or issue;
- (2) for each such CUSIP number, the redemption dates and prices to be established by the refunding;
- (3) for each such redemption date and price, a designation of the portion of such part or issue (e.g., the designation of use of proceeds, series, or certificate numbers) to which such redemption date and price applies.

The municipal securities broker or dealer also shall provide documentation supporting the information provided pursuant to the requirements of this subparagraph (D).

[(b)] (ii) *Number Affixture.* Each municipal securities broker or municipal securities dealer who acquires, whether as principal or agent, a new issue of municipal securities from the issuer of such securities for the purpose of distributing such new issue shall, prior to the delivery of such securities to any other person, affix to, or arrange to have affixed to, the securities certificates of such new issue the CUSIP number assigned to such new issue. If more than one CUSIP number is assigned to the new issue, each such number shall be affixed to the securities certificates of that part of the issue to which such number relates.

[(c)] (iii) *Underwriting Syndicate.* In the event a syndicate or similar account has been formed for the purchase of a new issue of municipal securities, the managing underwriter shall take the actions required under the provisions of this rule.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Rule G-34 currently requires that municipal securities brokers or dealers underwriting or participating in the placement of a new issue of municipal

securities must apply for the assignment of CUSIP numbers to the new issue, if it is eligible for a CUSIP number assignment, and must arrange for the affixing of the numbers to the securities certificates of the new issue once the numbers are assigned. The rule is intended to further the goals of the CUSIP numbering system—facilitating the identification of securities issues through the assignment of a unique alpha-numeric security number to each discrete, fungible issue of securities—by providing for the inclusion in the CUSIP numbering system of all eligible issues of municipal securities. The rule also promotes the use of the CUSIP number as a securities identification device by ensuring, through the affixing of assigned numbers to all issues, that the number is readily available for use throughout the securities handling process.

Certain events may occur after the underwriting of a particular new issue of municipal securities which affect the integrity of the CUSIP numbers originally assigned to the issue and may prevent the use of these numbers to uniquely identify securities of the issue. For example, municipal securities issues have been advance refunded in such a way that portions of what was once a single, fully-fungible issue or maturity with a single assigned CUSIP number are refunded to different redemption dates and prices, with securities of these different portions of the issue or the maturity thereby becoming no longer fungible.² Further, programs have been made available for the purchase of bond insurance on a portion of an issue or a maturity, or for the sale of a portion of an issue or a maturity subject to a put option or tender option written by a person other than the issuer or an agent of the issuer. Securities with this insurance or sold with such a put option or tender option attached are no longer fungible with other securities of the same issue or maturity which are uninsured (or insured by a different party) or traded without the option attached. In all of these cases these actions (the advance refunding, the purchase of bond insurance, or the attachment of the put option) have created a distinction in a previously fungible issue of securities which causes the previously assigned CUSIP number no longer to uniquely identify a single, fully fungible issue. The Board determined that it was necessary to

² Such issues have most typically been advance refunded by issue "Purpose" (i.e., the designation of the original use of the issue's proceeds), although certain issues have been advanced refunded by specific certificate number.

make provision for the reassignment of the CUSIP numbers to reflect these new distinctions.

The proposed rule change would require municipal securities brokers and dealers to arrange for the assignment of CUSIP numbers in circumstances in which previously assigned numbers no longer designate a single, fully-fungible issue of securities as a result of actions taken by the municipal securities broker or dealer. Such circumstances include: (1) issues which have been advance refunded in such a way that portions of what was once a single, fully-fungible issue or maturity with a single assigned CUSIP number are refunded to different redemption dates and prices; (2) the purchase of bond insurance on a portion of an issue or maturity; or (3) the sale of a portion of an issue or a maturity subject to a put option or tender option written by a person other than the issuer or an agent of the issuer. In regard to secondary market securities which are subject to insurance or put or tender options, the proposed rule change requires dealers to apply for a new CUSIP number for the unit (i.e., the bond traded with the credit enhancement attached), while allowing the previously assigned CUSIP number to be retained on the underlying bond. The Board determined that this provision should solve commentator concerns regarding the separate trading of the underlying bonds and enhancements since the underlying bond will retain its original CUSIP number.

The proposed rule change also provides that the rule will not apply to secondary market issues which do not meet the eligibility criteria for CUSIP number assignment. This approach is similar to that followed under the existing rule with respect to CUSIP number assignments on new issues.

(2) The proposed rule change is adopted pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended, which requires and empowers the Board to adopt rules

designed . . . to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in . . . clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest. . . .

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change would apply uniformly to all brokers, dealers, or municipal securities dealers whose

actions result in a CUSIP number no longer designating a single, fully-fungible issue of securities. The Board, therefore, believes that the proposed rule change would not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

In May 1984, the Board published for comment draft amendments to rule G-34.³ The draft amendments proposed to require municipal securities dealers to arrange for the reassignment of CUSIP numbers in circumstances in which such numbers no longer designate a single, fully-fungible issue of securities as a result of action taken by the dealer. The draft amendments also provided that municipal securities brokers and dealers must correct the CUSIP numbers previously imprinted on the issue (other than for advance refunded issues) through the use of stickers, silver-leaf corrections, or other similar means.

The Board received 16 comments on the draft amendments. Written comments were received from:

Manufacturers Hanover Trust Company ("Manufacturers")
CUSIP Service Bureau
United States Trust Company of New York ("U.S. Trust")
John Naveen & Co., Inc.
Municipal Bond Insurance Association ("MBIA")
Cashiers' Association of Wall Street, Inc.
Continental Illinois National Bank and Trust Company of Chicago ("Continental")
Leibenthal & Co. Inc.
Public Securities Association ("PSA")
Bank of Boston
Security Pacific Clearing & Services Corp. ("Security Pacific")
Merrill Lynch, Pierce, Fenner & Smith Inc. ("MLPFS")
First National Bank of Chicago ("First Chicago")
Matthews & Wright, Inc.
E.F. Hutton & Co. Inc.

The Board received an oral comment from The Depository Trust Company ("DTC").

1. Reassignment of CUSIP Numbers

Most of the commentators generally were in favor of the proposed requirement that dealers arrange for the reassignment of CUSIP numbers where such numbers no longer designate a single, fully-fungible issue of securities, with no commentator expressing opposition. First Chicago, PSA, and Bank of Boston, however, stated that a problem arises when parties who are responsible for secondary market

enhancements are market participants who are not subject to the Board's rules, i.e., customers. They noted that the fact that these parties are not required to apply for a new CUSIP number may compromise the integrity of the CUSIP system. First Chicago suggested that this loophole be closed partly by requiring that all customers who are related accounts of municipal securities brokers and dealers be subject to the rule amendments. The Board does not have the authority to adopt this suggestion since such customers are not under the Board's jurisdiction. Even though the Board cannot ensure that all advance refunded or enhanced issues will have reassigned CUSIP numbers, most of the commentators supported the Board's attempt to ensure that at least issues enhanced through dealer activities will be identified by a unique CUSIP number.

First Chicago also stated that the Board's lack of jurisdiction over customers could place a substantial additional burden on any third party dealer who comes into possession of a security enhanced by action of a customer since, in First Chicago's understanding of the draft amendments, such a dealer would be required to apply for a new CUSIP number. The proposed rule change does not place this burden on dealers who are not responsible for the enhancement of the securities.

—Advance Refunded Securities

In regard to advance refunded securities, the CUSIP Service Bureau asked if it was the Board's intention that a portion of an issue that is not advance refunded by renumbered. The Board sees no reason to require renumbering of an issue when the currently assigned number still identifies a unique issue of securities (i.e., the portion of the issue that has not been advance refunded).

—Enhanced Secondary Market Securities

Insured Bonds, Guaranteed Bonds and Bonds Backed by Letter of Credit.

No comments were received concerning the application of the draft number reassignment requirements to insured bonds, guaranteed bonds or bonds backed by a letter of credit.

Option Bonds.

Matthews & Wright and DTC stated that the number reassignment requirement proposed under the draft amendments is not structured in a manner that would be appropriate in the case of underlying bonds to which put option rights apply and that can be treated freely with or without the attached right (as is the case in

Matthews & Wright's TOPs program).⁴ Matthews & Wright noted that the draft amendments also do not provide for the separate detachment and trading of the attached rights as is permissible in the TOPs program. Matthews & Wright and Hutton suggested that the draft amendments be revised to allow the previously assigned CUSIP number to be retained on the underlying bond but to require that dealers apply for a CUSIP number for the put option. CUSIP and DTC also suggested that the CUSIP number on the underlying bond remain but asked that dealers be required to apply for a CUSIP number for the unit (i.e., the bond traded with the credit enhancement attached).⁵

The Board determined to revise the draft amendments concerning the reassignment of CUSIP numbers for enhanced secondary market securities to require dealers to apply for a new CUSIP number for the unit. This revision should solve commentator concerns regarding the separate trading of underlying bonds and enhancements since the underlying bond would retain its original CUSIP number. The Board does not believe, however, that it has the authority to mandate number assignment for the enhancement alone since such devices may not be municipal securities. If dealers wish to obtain another CUSIP number of these devices they are free to apply to CUSIP.

2. Number Affixture of Secondary Market Securities *

—Bearer Bonds

In regard to the requirement to affix reassigned CUSIP numbers on enhanced bearer bonds, DTC and the Cashiers' Association did not object to the draft amendments since the obliteration of the old number did not seem to present any processing problems. DTC noted that there might be some difficulty if paying agents (and transfer agents of interchangeable issues) are not advised of the number change. Four commentators, however, stated that it would be impossible for a dealer to affix new CUSIP numbers to bearer bonds not under its control or immobilized.⁷

³ Matthews & Wright stated that their comments may apply to other secondary market credit enhancements as well.

⁴ In addition, Manufacturers and MLPFS stated that if any credit enhancement device is available for less than the life of the issue, whatever new CUSIP number is assigned will have to be in effect only for the length of time the enhancement is available.

⁵ Naveen stated that there should be no affixture requirement for advance refunded securities. The draft amendments, however, do not provide for affixture of such bonds.

⁷ Bank of Boston, Continental, PSA, and Naveen.

³ Copies of the notice and of the comment letters received on it are on file at the Board.

Nuveen noted that, even for bonds on which the number is changed, the new number would be lost in the event that the securities are subsequently registered. MLPFS and Continental stated that since, in many instances, the CUSIP number would be changed on only some of these bearer bonds there would be increased attempts to counterfeit numbers and to use other fraudulent devices since credit enhancements affect the price of the security.

The Board determined that dealers should not be required to affix the reassigned CUSIP numbers on bearer bonds. Dealers then must utilize exception processing for these items.*

—Registered Bonds

Most commentators opposed the draft number affixture requirement for registered bonds primarily due to the problem this would present in transferring the securities. As commentators explained, transfer agent bondholder files are based on an issue's CUSIP number. If this number is changed, transfer agents would need to establish a new file for each portion of this issue subject to a new number and would have to maintain blank certificates with each CUSIP number. Manufacturers, U.S. Trust, and CUSIP believed that this would increase recordkeeping problems, expenses, and the risk of transfer errors. U.S. Trust and Nuveen stated that, since insurance and other secondary market credit enhancements have no significance to the issuer and the transfer agent, it is unreasonable to expect issuers and transfer agents to take action to provide for special treatment of these portions of the issue (such as inventorying new certificates or maintaining bondholder files under the new CUSIP number). Nuveen stated that it is beyond the Board's authority to require these persons to take such actions, and Bank of Boston questioned the legal authority of a transfer agent to accept and use such changed certificates where the issuer or the trustee is not included in these activities. Even if these legal problems are resolved, Manufacturers and U.S. Trust questioned who would pay the costs of the new procedures.

*Currently, if a security is assigned a replacement CUSIP number, dealers confirm trades in these securities using the new CUSIP number. When these securities are delivered, however, the number of the confirmation does not match the number printed on the bond. This requires "exception" processing currently provided for in rule G-12(e) (ii)(B) (1)(b). This section states that the delivery of a security with a CUSIP number of the transaction constitutes good delivery if the number of the confirmation has been assigned as a substitute or alternative number for the number reflected on the security.

U.S. Trust stated that, as a transfer agent for registered municipal securities, it would not acknowledge insurance or modified CUSIP numbers unless the issuer agreed and paid the extra costs.

Seven commentators concluded that the only solution to these problems is to immobilize those portions of secondary market issues subject to credit enhancements.* Many commentators referred to the CUSIP Board decision approving the reassigning of CUSIP numbers to permanently enhanced secondary market securities only if the securities are immobilized. These commentators strongly suggested that the Board modify its draft amendments to require dealers to immobilize issues which are subject to secondary market credit enhancements prior to applying for CUSIP numbers.

The Board determined not to adopt a rule requiring the immobilization of enhanced securities in connection with the reassignment of security identification numbers. Such an action would have appeared to constitute an endorsement of one particular approach to these transfer problems to the exclusion of other alternative approaches. In fact, since the time the comments on the draft amendments were submitted, CUSIP has revised its eligibility rules so that not all permanently enhanced secondary market securities must be immobilized to be eligible to obtain a CUSIP number. However, the Board determined to frame the proposed rule change in a way that recognizes the CUSIP Board's decision to limit the Service Bureau's authority to reassign numbers to enhanced securities in certain cases where the enhanced securities are required to remain immobilized to maturity. Therefore, the Board revised the draft amendments to state that the rule will not apply to issues which do not meet the eligibility criteria for CUSIP number assignment. Under this approach (which is similar to that followed under the currently existing rule with respect to assignments on new issues) dealers would not be obliged to obtain number assignments if the eligibility rules do not permit this. Thus, if a portion of an issue subject to an enhancement is not immobilized and CUSIP eligibility requirements mandate immobilization, the dealer would not be required to apply for reassignment of a CUSIP number. The Board also deleted the number affixture requirement for registered enhanced secondary market

securities given the transfer problems noted in the comments.

3. Miscellaneous

DTC and CUSIP noted that the language of the proposed subparagraph (a)(i)(D), concerning the reassignment of CUSIP numbers for advance refunded securities, refers to situations in which a part of an issue "is to be refunded to more than one redemption date and price." They stated that this language leaves the application of the rule unclear in the case of an issue in which a part (e.g., one specific purpose) is refunded to a single date and price and the balance of the issue is not refunded. Nuveen and Cashiers Association also stated that the section does not clearly require a dealer to apply for a new CUSIP number for advance refunded securities. These technical problems have been remedied in the proposed rule change.

Finally, CUSIP asked whether the Board should limit the application of the draft amendments to certain dollar amount of issues pre-refunded, insured, or made subject to put options. The Board determined not to set dollar limits on application requirements. It is the responsibility of CUSIP to determine its eligibility standards.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than

*Manufacturers, U.S. Trust, Nuveen, MBIA, Cashiers Association, Security Pacific and MLPFS.

those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by July 8, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 7, 1985.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-14426 Filed 6-14-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22132; File No. SR-PCC-85-04]

Self-Regulatory Organizations; Proposed Rule Change by Pacific Clearing Corp.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 5, 1985, the Pacific Clearing Corporation ("PCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PCC is proposing to provide certain services to participants of its affiliated securities depository, Pacific Securities Depository Trust Company ("PSDTC"), in connection with PSDTC's proposed program for the deposit and safekeeping of municipal bonds in bearer form. (See file no. SR-PSDTC-84-16.)

Under the proposed program, PSDTC participants may deposit municipal securities for safekeeping by delivering them, accompanied by properly completed deposit forms, to PCC's security processing windows in Los Angeles and San Francisco, California; Denver, Colorado; New York, New York; Portland, Oregon; and Seattle, Washington. Deposits made at PCC's San Francisco and branch offices will be sent to Los Angeles for safekeeping. Bearer securities on deposit with PSDTC may be withdrawn through PCC's

security processing windows following delivery of properly completed withdrawal request forms. Notices concerning PSDTC's municipal bearer bond program will be distributed to participants located outside of California through PCC's branch offices in Denver, New York City, Portland and Seattle. PCC's branch offices currently provide similar services to PSDTC participants in connection with other securities transactions and PSDTC services.

Interest payments payable to PSDTC participants with respect to bearer municipal bonds on deposit with PSDTC will be reflected on their PCC transaction blotters on the applicable payable dates, to indicate interest disbursements which are due to settle on the following day. Payments will be made through participants' PCC net settlement sheets on the first day after payable date and will be reflected on that day's pay/collect report.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed bearer municipal bond program will permit PSDTC's participants to retain eligible issues for safekeeping in a depository environment. In addition, participants will be able to use PSDTC's services for book-entry deliveries, pledge for collateral loans, interest collection and disbursement, call and maturity processing and transfer of eligible securities from bearer to registered form. The services which PCC is proposing to provide will make it easier for participants to avail themselves of the benefits of this program.

PCC believes that the proposed rule is change is consistent with Section 17A(b)(3)(F) of the Act, in that it furthers the objectives of the Act with respect to reducing the physical delivery of securities, enhancing the safekeeping of securities and supplementing the

existing interface between securities depositories.

(B) Self-Regulatory Organization's Statement on Burden on Competition

PCC perceives no burden on competition by reason of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments on the proposed rule change were neither solicited nor received from PCC's members or PSDTC's participants in general; however, the proposed municipal bond program was reviewed and discussed by a special committee of member and participant representatives appointed by PCC's and PSDTC's respective Boards of Directors.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-

mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by July 8, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 11, 1985.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-14425 Filed 6-14-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of Department of Transportation's Procedural Regulations; Week Ended June 7, 1985

Subpart Q—Applications

The due date for answers, conforming applications, or motions to modify scope

are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings (See, 14 CFR 302.1701 et seq.).

| Date filed | Docket No. | Description |
|--------------|------------|--|
| June 7, 1985 | 43189 | Hageland Aviation Services, Inc., c/o Bill Miller, Bill Miller Associates, Suite 301, 1341 G Street, NW, Washington, D.C. 20005. Application of Hageland Aviation Services, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations, requests authority to engage in interstate air transportation of persons, property and mail. Between any point in any state in the United States or the District of Columbia, or any territory of possession of the United States, and any other point in any State of the United States or the District of Columbia or any territory or possession of the United States. Conforming Applications, Motions to Modify Scope and Answers may be filed by July 5, 1985. |
| June 8, 1985 | 43184 | Atlantic Gulf Airlines, c/o Stephen L. Gelband, Hewes, Morella, Gelband & Lambertson, 1010 Wisconsin Ave., NW, Washington, D.C. 20007. Application of Atlantic Gulf Airlines pursuant to section 401 of the Act and Subpart Q of the Regulations requests authority to provide foreign scheduled and charter air transportation of persons, property and mail between a point or points in Florida and a point or points in the Turks and Caicos Islands. Conforming Application, Motions to Modify Scope and Answers may be filed by July 5, 1985. |
| June 6, 1985 | 43178 | Aerotour Dominicano, C. Por A., c/o Harry A. Bowen, Bowen & Atkin, Suite 350, 2020 K Street, NW, Washington, D.C. 20006. Application of Aerotour Dominicano, C. Por A. pursuant to section 402 of the Act and Subpart Q of the Regulations applies for authority to engage in air transportation between the terminals New York, Miami, San Juan and at a terminal point or points in the Dominican Republic. Answers may be filed by July 3, 1985. |

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 85-14504 Filed 6-14-85; 8:45 am]

BILLING CODE 4910-62-M

[Docket 43006]

Pan Aviation, Inc., Fitness Investigation; Rescheduling of Hearing

Notice is hereby given that the hearing in the above-entitled proceeding is rescheduled to be held on July 2, 1985, at 10:00 a.m. (local time) in Room 5332, Nassif Building, 400 7th Street, SW., Washington, D.C. 20590, before the undersigned administrative law judge.

Dated at Washington, D.C., June 11, 1985.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 85-14505 Filed 6-14-85; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD 85-045]

Houston/Galveston Navigation Safety Advisory Committee; Inshore Waterway Management Subcommittee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub.

L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Inshore Waterway Management Subcommittee of the Houston/Galveston Navigation Safety Advisory Committee. The meeting will be held on Thursday, July 11, 1985 at the Houston Yacht Club, 3620 Miramar Drive, LaPorte, Texas. The meeting is scheduled to begin at 10 a.m. and end at 12 p.m. The agenda for the meeting consists of the following items:

1. Call to Order.
2. Discussion of previous recommendations made by the full Advisory Committee and the Inshore Waterway Management Subcommittee.

3. Presentation of any additional new items for consideration to the Subcommittee.

4. Adjournment.

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Prior to presentation of their oral statements, but no later than the day before the meeting, members of the public shall submit, in writing, to the Executive Secretary of the Houston/Galveston Navigation Safety Advisory Committee, the subject of their comments, a general outline signed by the presenter, and the estimated time required for presentation. The individual making the presentation shall also provide their name, address, and, if applicable, the organization they are representing. Any member of the public may present a written statement to the Advisory Committee at any time.

Additional information may be obtained from Commander R. A. Brunell, USCG, Executive Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, telephone number (504) 589-6901.

Dated: June 5, 1985.

T.T. Matteson,

Captain, U.S. Coast Guard Commander, 8th Coast Guard District Acting.

[FR Doc. 85-14461 Filed 6-14-85; 8:45 am]

BILLING CODE 4910-14-M

[CGD 85-046]

Houston/Galveston Navigation Safety Advisory Committee; Offshore Waterway Management Subcommittee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Offshore Waterway Management Subcommittee of the Houston/Galveston Navigation Safety Advisory Committee. The meeting will be held on Thursday, July 18, 1985 at the Galveston Wharf Board Room, 8th Floor, Sheraton Plaza (Old Santa Fe Building), Galveston, Texas. The meeting is scheduled to begin at 10 a.m. and end at 12 p.m. The agenda for the meeting consists of the following items:

1. Call to Order.
2. Discussion of previous recommendations made by the full Advisory Committee and the Offshore Waterway Management Subcommittee.

3. Presentation of any additional new items for consideration to the Subcommittee.

4. Adjournment.

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Prior to presentation of their oral statements, but no later than the day before the meeting, members of the public shall submit, in writing, to the Executive Secretary of the Houston/Galveston Navigation Safety Advisory Committee, the subject of their comments, a general outline signed by the presenter, and the estimated time required for presentation. The individual making the presentation shall also provide their name, address, and, if applicable, the organization they are representing. Any member of the public may present a written statement to the Advisory Committee at any time.

Additional information may be obtained from Commander R.A. Brunell, USCG, Executive Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, telephone number (504) 589-6901.

Dated: June 5, 1985.

T.T. Matteson,

Captain, U.S. Coast Guard Commander, 8th Coast Guard District Acting.

[FR Doc. 14460 Filed 6-14-85; 8:45 am]

BILLING CODE 4910-14-M

[CGD 85-012]

Equipment, Construction, and Materials

AGENCY: Coast Guard, DOT.

ACTION: Approval notice.

SUMMARY: This notice contains a listing of Coast Guard approvals issued between 1 December 1984 and 30 April 1985. These approvals are for safety equipment and materials required by regulation to be used on certain merchant vessels and recreational boats, and also in Outer Continental Shelf activities.

FOR FURTHER INFORMATION CONTACT: Ms. Valerie Williams, Office of Merchant Marine Safety (G-MVI-3/24), Room 1404, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593, (202) 426-1444. Normal office hours are between 7 a.m. and 3:30 p.m., Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: Certain regulations in Titles 33 and 46 of the Code of Federal Regulations require that

various items of lifesaving, firefighting and other safety equipment and materials used on board merchant vessels and recreational boats, and in Outer Continental Shelf activities be approved by the Commandant, U.S. Coast Guard. This document notifies interested persons that certain approvals have been issued or revised during the period from 1 December 1984 and 30 April 1985. These actions were taken under the procedures in 46 CFR 2.75-1 to 2.75-50.

The statutory authority governing carriage of this equipment is in sections 3306(a), 4102, and 4302(a)(2) of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority of the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)).

Most of the items in this list meet specification regulations in 46 CFR Parts 160 to 164. The approvals listed in this document are generally issued for a period of 5 years from the date of issue, unless sooner withdrawn, suspended or terminated.

Buoyant Apparatus

Approval No. 160.010/85/0, Model KRR-30A buoyant ring 30" O. D x 8" I.D. 4 person capacity, manufactured Rescue Ring Inc., 227 N. E. Brumbaugh, Ilwaco, WA 78624.

Self-Contained Breathing Apparatus

Approval No. 160.011/69/0, Models 802, 805, 808, and 811 self-contained, manufactured by North Safety Equipment, 2000 Plainfield Pike, Cranston, RI 02920.

Approval No. 160.011/70/0, Models 803, 806, 809, and 815 self-contained, 30 minute, manufactured by North Safety Equipment, 2000 Plainfield Pike, Cranston, RI 02920.

Approval No. 160.011/71/0, Models 801, 804, 807, and 810 self-contained, 30 minute, manufactured by North Safety Equipment, 2000 Plainfield Pike, Cranston, RI 02920.

Lifeboat Winch

Approval No. 160.015/94/1, Type 55G-MKII lifeboat winch, manufactured by Marine Safety Equipment Corp., P.O. Box 465,

Farmingdale, NJ 07727. Approval No. 160.015/101/0, Type 75 G lifeboat winch, manufactured by Marine Safety Equipment Corp., P.O. Box 465, Farmingdale, NJ 07727.

Approval No. 160.015/105/0, Type 55CH-MKIII lifeboat winch, manufactured by Marine Safety Equipment Corp., P.O. Box 465, Farmingdale, NJ 07727.

Approval No. 160.015/110/0, Type 35G-MK111 lifeboat winch, manufactured by Marine Safety Equipment Corp., P.O. Box 465, Farmingdale, NJ 07727.

Approval No. 160.015/123/0, Type BE 6.0 lifeboat winch, manufactured by Schat Davit Corp., 226 West Park Place, Newark, DE 19711.

Approval No. 160.015/127/0, Model W1400 survival capsule launching winch, manufactured by Whittaker Corporation, 5159 Baltimore Drive, La Mesa, CA 92041.

Approval No. 160.015/146/0, Type BE 3.8 lifeboat winch, manufactured by The Schat Davit Corporation, 226 West Park Place, Newark DE 19711.

Chain Ladder Equivalent

Approval No. 160.017/56/0, Embarkation—Debarcation Ladder equivalent to chain ladder, manufactured by Sidewinder International Ltd., 4902 Lord Byron Rd, Wilmington, NC 28405.

Approval No. 160.017/59/0, Model Erik I embarkation ladder approved equivalent to chain ladder—suspension member 3/4 inch poly-dacron—all steps ash wood except #3 step in synthetic-maximum approved length 62 feet. Manufactured by A. L. Don Company, Ft. Dock St., Matawan, NJ 07747.

Emergency Signaling Mirror

Approval No. 160.020/2/2, 4"x5" Type SMC, manufactured by Reviser Supply Company, Inc., Safety Mirror Company Division, 603-607 W. 29th Street, New York, New York 1001.

Hand Held Red Flare Distress Signal

Approval No. 160.021/16/0, Olin Hand Red Flare, 2 minute, 500 candela. Manufactured by Kilgore Corporation Bradford Rd., Toone, TN 38381-0099.

Signal Pistol

Approval No. 160.028/11/0, Olin 25 mm Signal Flare Launcher, Mark II, with 12 ga. converter. Manufactured by Olin Corporation, Signal Products Operation, East Alton, IL 62024.

Approval No. 160.028/12/1, Signal Launcher Mark III, Olin 12 ga. Manufactured by Olin Corporation, Signal Products Operation, East Alton, IL 62024.

Approval No. 160.028/20/0, NICOSIGNAL Launcher with 6 shot magazine using 160.066/22/0 Flare cartridges. Manufactured by NICO-Pyrotechnik, Beider Feuerwerkerei 4, P.O. Box 1227, D-2077 Trittau, F.R. Germany.

Lifeboat Davit

Approval No. 160.032/169/3, Type S-30-22 fixed gravity davit; manufactured by Marine Safety Equipment Corp., P.O. Box 465, Farmingdale NJ 07727.

Approval No. 160.032/196/0, Type SS 1401 small survival capsule launching system, manufactured by Whittaker Corporation, La Mesa, CA 92041.

Approval No. 160.032/207/0, Type 24-40 MK111 mechanical davit, steel straight boom and sheath screw, manufactured by Marine Safety Equipment Corp., P.O. Box 465, Farmingdale, NJ 07727.

Approval No. 160.032/220/0, Type 20-7 gravity davit, approved for a maximum working load of 7,000 lbs., manufactured by Marine Safety Equipment Corp., P.O. Box 465, Farmingdale, NJ 07727.

Approval No. 160.032/231/0, Type WP21/10.5 gravity pivot davit, approved for a maximum working load of 9,928 lbs., manufactured by Watercraft American, Inc., P.O. Box 1130, Edgewater, FL 32032. Approval No. 160.032/256/0, Type SPG (VL) gravity

pivot davit, approved for a maximum working load of 10,500 lbs., manufactured by The Schat Davit Corporation, 226 West Park Place, Newark, DE 19711.

Mechanical Disengaging Apparatus (for lifeboats)

Approval No. 160.033/69/0, Titan Release Gear, approved for maximum working load of 10,833 lbs. per hook. Manufactured by Watercraft America, Inc. P.O. Box 1130, Edgewater, FL 32032.

Lifeboat

Approval No. 160.035/342/2, 24.0'x8.0'x3.5' aluminum, hand propelled lifeboat, 40-person capacity, manufactured by Marine Safety Equipment Corp., Foot of Wyckoff Road, Farmingdale, NJ 07727. Approval No. 160.035/485/0, 21.83'x8.08'x2.93' fibrous glass reinforced plastic (FRP), manufactured by Watercraft Admerica, Inc., P.O. Box 1130, Edgewater, FL 32032.

Approval No. 160.035/496/0, 23.97' x 8.0' x 3.48' fibrous glass reinforced plastic lifeboat, manufactured by Marine Safety Equipment Corp., Foot of Wyckoff Road, Farmingdale, NJ 07727.

Approval No. 160.035/516/0, 37.42' x 12.5' x 5.42' 145 passenger, motor propelled, manufactured by Lane Marine Technology Inc., 150 Sullivan St., Brooklyn, NY 11231.

Approval No. 160.035/520/0, 37.42' x 12.5' x 5.42' 115 passenger, motor propelled, manufactured by Lane Marine Technology Inc., 150 Sullivan St., Brooklyn, NY 11231.

Approval No. 160.035/521/0, 37.42' x 12.5' x 5.42' 102 passenger, motor propelled, manufactured by Lane Marine Technology Inc., 150 Sullivan St., Brooklyn, NY 11231.

Hand Held Orange Smoke Distress Signal

Approval No. 160.037/17/0, Olin Hand Held Orange Distress Signal, 50 second. Manufactured by Olin Corporation, Signal Products Operation, East Alton, IL 62024.

First Aid Kit

Approval No. 160.041/16/0 Healer First Aid Kit in ABS plastic case, manufactured by Healer Products Inc., P.O. Box 153, Mamaroneck, NY 10543.

Emergency Provisions for Lifeboat & Liferaft

Approval No. 160.046/8/1, Emergency Provisions for lifeboats (and liferafts) in hermetically sealed foil laminate package manufactured by Revere Supply Co., 605 W. 29th Street, New York, NY 10001.

Approval No. 160.046/9/1, Emergency Provisions for lifeboats (and liferafts) in hermetically sealed foil laminate package manufactured by Revere Supply Co., 605 W. 29th Street, New York, NY 10001.

Inflatable Liferaft

Approval No. 160.051/99/0, Inflatable life raft, 25-person capacity with "Ocean Service Equipment," manufactured by B. F. Goodrich Company, Engineered Systems Company, Union, West Virginia 24893.

First Aid Kit for Inflatable Liferafts

Approval No. 160.054/10/0, Model BA 1770 First Aid Kit for Inflatable Liferafts. Manufactured by Rubber Fabricators Inc., P.O. Box 248, Apex, NC 27502.

Approval No. 160.054/11/0, Healer First Aid Kit in resealable vinyl pouch, manufactured by Healer Products Inc., P.O. Box 153, Mamaroneck, NY 10543.

Unicellular Plastic Foam Work Vest

Approval No. 160.055/119/1, Adult, Nonstandard Type I PFD, Model 262, manufactured by Billy Pugh Co., Inc., P.O. Box 802, 1415 N. Water Street, Corpus Christi, TX 78403.

Buoyant Vests

Approval No. 160.060/63/0, Child, Type II PFD, Model AY-0-1, manufactured by America's Cup, Inc., P.O. Box 2009, La Puente, CA 91746.

Approval No. 160.060/64/0, Youth, Type II PFD, Model AY-0-2, manufactured by America's Cup, Inc., P.O. Box 2009, La Puente, CA 91746.

Approval No. 160.060/65/0, Adult Universal, Type II PFD, Model AY-0-3, manufactured by America's Cup, Inc., P.O. Box 2009, La Puente, CA 91746.

Fishing Tackle Kit

Approval No. 160.061/4/2, Model RSCF-182 emergency fishing tackle kit, manufactured by Revere Supply Co., Inc., 603-607 West 29th St., New York, NY 10002.

Marine Buoyant Device

Approval No. 160.064/327/1, Adult X-Small, Type III PFD, Model VAXS, manufactured by Texas Recreation Corporation, Texas Watercrafters Division, P.O. Drawer 539, Wichita Falls, TX 76307.

Approval No. 160.064/550/1, Adult XX-Large or Super, Type III PFD, Models FJ-7045, FJ-7055, IFJ-0052, IFJ-55, IFJ-551.

manufactured by Stearns Manufacturing Company, P.O. Box 1498, 30th and Division Streets, St. Cloud, MN 56301.

Approval No. 160.064/1355/1, Adult X-Small, Type III PFD, Model 200AXS, manufactured by O'Brien International, Division of Coleman Co., 14615 N.E. 91st Street, Redmond, WA 98052.

Approval No. 160.064/1693, Adult Ladies-XS, Type III PFD, Model LVXS, manufactured by Texas Recreation Corp., Texas Watercrafters Division, P.O. Drawer 539, Wichita Falls, TX 76307.

Approval No. 160.064/1791/0, 18 x 18 x 3, Type IV PFD, Model BC-1, manufactured by Fabricions, Inc., Route 130 South, Camargo, IL 61919.

Approval No. 160.064/2188/0, Adult Small, Type III PFD, Model SSV-5371, manufactured by Stearns Manufacturing Co., 30th and Division Streets, P.O. Box 1498, St. Cloud, MN 56302.

Approval No. 160.064/2189/0, Adult Medium, Type III PFD, Model SSV-5371, manufactured by Stearns Manufacturing Co., 30th and Division Streets, P.O. Box 1498, St. Cloud, MN 56302.

Approval No. 160.064/2190/0, Adult Large, Type III PFD, Model SSV-5371, manufactured by Stearns Manufacturing Co., 30th and Division Streets, P.O. Box 1498, St. Cloud, MN 56302.

Approval No. 160.064/2191/0, Adult X-Large, Type III PFD, Model SSV-5371, manufactured by Stearns Manufacturing Co.,

30th and Division Streets, P.O. Box 1498, St. Cloud, MN 56302.

Approval No. 160.064/2342/0, 16 1/2" x 14" x 2 3/4", Type IV PFD, Model 4000, manufactured by H. H. Breman Mfg. Co., Inc., 405 N. Industrial Drive, P.O. Box 243, Breman, IN 46506.

Approval No. 160.064/2351/0, Child Small (for person 30 to 50 lbs.), Type III PFD, Model No. BV-4, manufactured by Buddy Schoellkopf Products, Inc., 4949 Joseph Hardin Drive, Dallas, TX 75236.

Approval No. 160.064/2352/0, Child Medium or Youth (for person 50 to 90 lbs.), Type III PFD, Model No. BV-4, manufactured by Buddy Schoellkopf Products, Inc., 4949 Joseph Hardin Drive, Dallas, TX 75236.

Approval No. 160.064/2353/0, Adult Small/Medium, Type III PFD, Model No. BV-4 -5, manufactured by Buddy Schoellkopf Products, Inc., 4949 Joseph Hardin Drive, Dallas, TX 75236.

Approval No. 160.064/2354/0, Adult Large/X-Large, Type III PFD, Model No. BV-4 -5, manufactured by Buddy Schoellkopf Products, Inc., 4949 Joseph Hardin Drive, Dallas, TX 75236.

Approval No. 160.064/2355/0, Adult XX-Large, Type III PFD, Model No. BV-4 -5, manufactured by Buddy Schoellkopf Products, Inc., 4949 Joseph Hardin Drive, Dallas, TX 75236.

Approval No. 160.064/2356/0, Toddler (for persons less than 30 lbs.), Type III PFD, Model No. BV-4, manufactured by Buddy Schoellkopf Products, Inc., 4949 Joseph Hardin Drive, Dallas, TX 75236.

Approval No. 160.064/2382/0, Youth (for persons 50 to 90 lbs.), Type III PFD, Model SPY, manufactured by Atlantic Pacific, Box 27, Staten Island, NY 10314.

Approval No. 160.064/2383/0, Adult Small, Type III PFD, Model SPS, manufactured by Atlantic Pacific, Box 27, Staten Island, NY 10314.

Approval No. 160.064/2384/0, Adult Medium, Type III PFD, Model SPM, manufactured by Atlantic Pacific, Box 27, Staten Island, NY 10314.

Approval No. 160.064/2385/0, Adult Large, Type III PFD, Model SPL, manufactured by Atlantic Pacific, Box 27, Staten Island, NY 10314.

Approval No. 160.064/2386/0, Adult X-Large, Type III PFD, Model SLX, manufactured by Atlantic Pacific, Box 27, Staten Island, NY 10314.

Approval No. 160.064/2387/0, Adult XX-Large, Type III PFD, Model SPZ, manufactured by Atlantic Pacific, Box 27, Staten Island, NY 10314.

Approval No. 160.064/2388/0, Petite or Adult X-Small, Type III PFD, Model WJM-9135 or 9138, manufactured by Stearns Manufacturing Co., 30th and Division Streets, P.O. Box 1498, St. Cloud, MN 56302.

Approval No. 160.064/2389/0, Adult X-Small, Type III PFD, Model WJM-9135 or 9138, manufactured by Stearns Manufacturing Co., 30th and Division Streets, P.O. Box 1498, St. Cloud, MN 56302.

Approval No. 160.064/2390/0, Adult Medium, Type III PFD, Model WJM-9135 or 9138, manufactured by Stearns Manufacturing Co., 30th and Division Streets, P.O. Box 1498, St. Cloud, MN 56302.

Approval No. 160.064/2391/0, Adult Large, Type III PFD, Model WJM-9135 or 9138, manufactured by Stearns Manufacturing Co., 30th and Division Streets, P.O. Box 1498, St. Cloud, MN 56302.

Approval No. 160.064/2392/0, Adult X-Large, Type III PFD, Model WJM-9135 or 9138, manufactured by Stearns Manufacturing Co., 30th and Division Streets, P.O. Box 1498, St. Cloud, MN 56302.

Red Aerial Pyrotechnic Flare

Approval No. 160.066/8/0, Sigma Scientific Model 20R8 Skyblazer Aerial Flare, 8 second meteor flare, Manufactured Sigma Scientific, Inc., 1830 South Baker Ave., Ontario, CA 91761.

Approval No. 160.066/9/0, Olin 25 mm Red Meteor Flare cartridge for 25 mm pistol, 6-second, Manufactured by Olin Corporation, Signal Products Operation, East Alton, IL 62024.

Approval No. 160.066/10/0, Olin 12 ga. Red Meteor Flare, 6-second, manufactured by Olin Corporation, Signal Products Operation, East Alton, IL 62024.

Approval No. 160.066/11/0, Olin 25 mm Red Parachute Flare cartridge for 25 mm pistol, 25-second, Manufactured by Olin Corporation, Signal Products Operation, East Alton, IL 62024.

Approval No. 160.066/22/0, Type 1/2 x 45 Red Aerial Flare for use in NICOSIGNAL launcher approval no. 160.028/20/0, Manufactured by NICO-Pyrotechnik, Beider Feuerwerkerei 4, P.O. Box 1227, D-2077 Trittau, F.R. Germany.

Automatic Disengaging Device for Liferafts

Approval No. 160.070/7/0, Model ARH/3-C-100, manufactured by Davit Company B. V., P.O. Box 9032, 3506 Utrecht, Holland.

Exposure Suit

Approval No. 160.071/23/0, Model 8-123 or 4123 with "Air Pack," Manufactured by O'Neill, Inc., 1071 41st Ave., Santa Cruz, CA 95062.

Approval No. 160.071/25/0, Jumbo size, Model ISS-590, approved only when Inflatable Ring, manufactured by Stearns Manufacturing Co., 30th and Division Streets, P.O. Box 1498, St. Cloud, MN 56302.

Electric Hand Flashlight

Approval No. 161.008/19/0, Model No. GC-3CG waterproof flashlight Type I, size 3(3-cell), manufactured by G.T. Price Products, Inc., 774 Fairway Drive, Wauseon, OH 43567.

Floating Electric Water Light

Approval No. 161.010/5/2, Model S1307 Seastar Distress Marker, manufactured by Soderberg Manufacturing Co., Inc., 20821 Carnier Road, Walnut, CA 91789.

Class A EPIRB

Approval No. 161.011/1/0, Model EB-2BW Whaler (P/N 750082), manufactured by Martech, Inc., P.O. Box 14070, Fort Lauderdale, FL 33302.

Personal Flotation Device Light

Approval No. 161.012/11/0, Model 102 PFD light, Manufactured by Fulton Industries Inc., 135 East Linfoot St., Wauseon, OH 43567.

Safety Valve (Power Boilers)

Approval No. 162.001/13/2, Style HNA-MS-38, manufactured by Crosby Valve and Gage Company, Wrentham, Massachusetts 02093.

Approval No. 162.001/285/0, Type 1700 series Maxiflow Safety Valves, manufactured by Dresser, Industrial Valve & Instrument, P.O. Box 1430, Alexandria, LA 71301.

Pressure Vacuum Relief and Spill Valve

Approval No. 162.017/66/4, Figure No. 120 pressure-only relief valve, Manufactured by Hayward Industrial Products, Inc., 900 Fairmount Avenue, Elizabeth, NJ 07207.

Approval No. 162.017/84/0, Model MV-250 pressure-vacuum relief valve, Manufactured by J.M. Huber Corporation, Staytite Department, P.O. Box 2871, Borger, TX 79007.

Approval No. 162.017/98/2, Figure No. 160 (2 sheets) pressure relief valve, manufactured by Hayward Industrial Products, Inc., 900 Fairmount Avenue, Elizabeth, NJ 07207.

Approval No. 162.017/106/0, 4" pressure vacuum relief valve for cargo oil tankers, manufactured by GPE Controls, Inc., 6511 Oakton St., Morton Grove, IL 60053.

Approval No. 162.017/107/0, 4" pressure only relief valve for cargo oil tankers, Manufactured by GPE Controls, Inc., 6511 Oakton St., Morton Grove, IL 60053.

Approval No. 162.017/108/0, 4" pressure only relief valve for cargo oil tankers, Manufactured by GPE Controls, Inc., 6511 Oakton St., Morton Grove, IL 60053.

Approval No. 162.017/109/0, 4" vacuum only relief valve for cargo oil tankers, Manufactured by GPE Controls, Inc., 6511 Oakton St., Morton Grove, IL 60053.

Liquefied Compressed Gas Safety Relief Valve

Approval No. 162.018/81/0, Style JO-22, safety relief valve for liquefied compressed gas service, Manufactured by Crosby Valve & Gage Company Wrentham, MA 02093.

Approval No. 162.018/90/0, Type 93 Pilot Operated Safety Relief Valve for Liquefied Compressed Gas Service, Manufactured by Anderson-Greenwood & Company, 5425 South Rice Avenue, Houston, TX 77038.

Approval No. 162.018/91/0, Starflow P3 Series for Liquefied Compressed Gas Service, manufactured by Sarasin S.A., 110, Rue Du General Dame, F 59320 Haubourdin—BP33, France.

Approval No. 162.018/92/0, Starflow P3 Series Safety Valve for Liquefied Compressed Gas Service, Manufactured by Sarasin S.A., 110, Rue Du General Dame, F 59320 Haubourdin—BP33, France.

Approval No. 162.018/93/0, Starflow P3 Series Safety Valve for Liquefied Compressed Gas Service, Manufactured by Sarasin S.A., 110, Rue Du General Dame, F 59320 Haubourdin—BP33, France.

Approval No. 162.018/94/0, Starflow P5 Series Safety Valve for Liquefied Compressed Gas Service, manufactured by Sarasin S.A., 110, Rue Du General Dame, F 59320 Haubourdin—BP33, France.

Fixed Fire Extinguishing Systems

Approval No. 162.029/39/0, "Fyre Watch" Model 170 Halon 1211 pre-engineered type fire extinguishing system, Walter Kidde, Div.

of Kidde, Inc., 1394 S. Third Street, Mebane, NC 27302-9199.

Approval No. 162.029/40/0, "Fyre Watch" Model 385 Halon 1211 pre-engineered type fire extinguishing system. Walter Kidde, Div. of Kidde, Inc., 1394 S. Third Street, Mebane, NC 27302-9199.

Approval No. 162.029/41/0, Model "G-75," 1.5 lb. Halon 1301 pre-engineered type fire extinguishing system manufactured by Metalcraft, Inc., Sea-Fire Division, 718 Debelius Ave., Baltimore, MD 21205.

Approval No. 162.029/42/0, Model "G-150," 3.0 lb. Halon 1301 pre-engineered type fire extinguishing system manufactured by Metalcraft, Inc., Sea-Fire Division, 718 Debelius Ave., Baltimore, MD 21205.

Approval No. 162.029/43/0, Model "G-250," 5.0 lb. Halon 1301 pre-engineered type fire extinguishing system manufactured by Metalcraft, Inc., Sea-Fire Division, 718 Debelius Ave., Baltimore, MD 21205.

Approval No. 162.029/44/0, Model "G-350," 7.0 lb. Halon 1301 pre-engineered type fire extinguishing system manufactured by Metalcraft, Inc., Sea-Fire Division, 718 Debelius Ave., Baltimore, MD 21205.

Approval No. 162.029/45/0, Model "G-500," 10.0 lb. Halon 1301 pre-engineered type fire extinguishing system manufactured by Metalcraft, Inc., Sea-Fire Division, 718 Debelius Ave., Baltimore, MD 21205.

Approval No. 162.029/46/0, Model "G-800," 16.0 lb. Halon 1301 pre-engineered type fire extinguishing system manufactured by Metalcraft, Inc., Sea-Fire Division, 718 Debelius Ave., Baltimore, MD 21205.

Approval No. 162.029/47/0, Model "G-1000," 20.0 lb. Halon 1301 pre-engineered type fire extinguishing system manufactured by Metalcraft, Inc., Sea-Fire Division, 718 Debelius Ave., Baltimore, MD 21205.

Foam Type Fire Extinguishing System

Approval No. 162.033/23/0, Model "Offshore Wildcat 60," manufactured by Magnum Fire & Safety Systems, 6648 Gulfway Drive, Port Arthur, TX 77640.

Approval No. 162.033/24/0, Model "Offshore Wildcat 35," manufactured by Magnum Fire & Safety Systems, 6648 Gulfway Drive, Port Arthur, TX 77640.

Backfire Flame Arrester for Gasoline Engines

Approval No. 162.041/190/9, Barbron all brass flame arresters Model No. suffixed by "B," suffixed by "AA," manufactured Barbron Corporation, 14580 Lesure Ave., Detroit, MI 48227.

Approval No. 162.041/198/1, Barbron all brass flame arresters Manufactured Barbron Corporation, 14580 Lesure Ave., Detroit, MI 48227.

Approval No. 162.041/204/0, MLJ Velocity Stack Arrester, manufactured by MLJ Engineering, 840 Dodsworth Avenue, Covina, CA 91724.

Approval No. 162.041/206/1, Kawasaki Flame Arrester, Part number 59006-3005C, Manufactured by Kawasaki Motors Corp., USA, P.O. Box 25252, Santa Ana, CA 92799-5252.

Oil Water Separators

Approval No. 162.050/1050/0, Facet Model 10WS-3/13.2-15, Manufactured by Facet

Industrial Division, Facet Enterprises, Inc., P.O. Box 50096, Tulsa, OK 74150.

Approval No. 162.050/1051/0, Facet Model 10WS-4/17.6-15, Manufactured by Facet Industrial Division, Facet Enterprises, Inc., P.O. Box 50096, Tulsa, OK 74150.

Approval No. 162.050/1052/0, Facet Model 10WS-5/22-15, Manufactured by Facet Industrial Division, Facet Enterprises, Inc., P.O. Box 50096, Tulsa, OK 74150.

Approval No. 162.050/1053/0, Hapco Model HMCI-2, manufactured by Harco Manufacturing Company, 7700 S.W. 68th Avenue, Portland, OR 97223.

Approval No. 162.050/1136/0, Hapco Model HMCI-4, manufactured by Harco Manufacturing Company, 7700 S.W. 68th Avenue, Portland, OR 97223.

Approval No. 162.050/1137/0, Hapco Model HMCI-6, manufactured by Harco Manufacturing Company, 7700 S.W. 68th Avenue, Portland, OR 97223.

Approval No. 162.050/1143/0, Hapco Model HMCI-8, manufactured by Harco Manufacturing Company, 7700 S.W. 68th Avenue, Portland, OR 97223.

Approval No. 162.050/1144/0, Facet Model 1/0WS-10, manufactured by Facet Industrial Division, Facet Enterprises, Inc., P.O. Box 50096, Tulsa, OK 74150.

Approval No. 162.050/1145/0, Model 4, 5.6 M³/HR, manufactured by Hyde Products, 810 Sharon Drive, Cleveland, OH 44145.

Approval No. 162.050/1146/0, Model 10WS-0.25/1.1-15, manufactured by Facet Industrial Division, Facet Enterprises, Inc., P.O. Box 50096, Tulsa, OK 74150.

Approval No. 162.050/1147/0, Model 10WS-0.50/2.2-15, manufactured by Facet Industrial Division, Facet Enterprises, Inc., P.O. Box 50096, Tulsa, OK 74150.

Approval No. 162.050/1148/0, Model 10WS-0.68/3.2-15, manufactured by Facet Industrial Division, Facet Enterprises, Inc., P.O. Box 50096, Tulsa, OK 74150.

Approval No. 162.050/1149/0, Model 10WS-1/4.4-15, manufactured by Facet Industrial Division, Facet Enterprises, Inc., P.O. Box 50096, Tulsa, OK 74150.

Approval No. 162.050/3016/0, Facet Mark VIII Bilge Alarm, manufactured by Facet Industrial Division, Facet Enterprises, Inc., P.O. Box 50096, Tulsa, OK 74150.

Approval No. 162.050/5003/0, Cargo deballasting meter, Model SE, Type OTM 1411C, manufactured by Sasakura Engineering Co., Ltd., 7-5 Mitejima 6-Chome, Nishikyodogawa-Ku, Osaka 555, Japan.

Deck Covering

Approval No. 164.006/52/0, "Selbalith 7K-FR" magnesium oxychloride cement type deck covering, manufactured by Selby Battersby & Company, 5220 Whitby Avenue, Philadelphia, PA 19143.

Approval No. 164.006/62/0, Composite deck covering, manufactured by Laticrete International Inc., 1 Laticrete Park North, Bethany, Connecticut 06525.

Bulkhead Panels

Approval No. 164.006/64/1, E. F. Hauserman's "Double Wall" marine bulkhead panel, manufactured by The E. F. Hauserman Company, 5711 Grand Ave., Cleveland, OH 44105.

Approval No. 164.006/117/0, "Vermipan" vermiculite type bulkhead panel, manufactured by Novopan-Keller LTD, 5313 Klingnau, Switzerland.

Approval No. 164.006/120/0, "Rockmarine Panels, Types M, O, and E" steel-faced mineral wool bulkhead panels, manufactured by Nichias Corporation, No. 1-26, 1-Chome, Shibadaimon, Minato-Ku, Tokyo 105, Japan.

Approval No. 164.006/121/0, "Rockmarine Panel/45 dB Type M45" steel-faced mineral wool bulkhead panels, manufactured by Nichias Corporation, No. 1-26, 1-Chome, Shibadaimon, Minato-Ku, Tokyo 105, Japan.

Approval No. 164.006/122/0, JMC-Type 33 dB bulkhead panels, manufactured by OY Stockfors AB, SF-10360 Svarta, Finland.

Noncombustible Material

Approval No. 164.009/216/0, ASK Rock Fine Board—N, No. 80 rock wool insulation board, manufactured by Asahi Asbestos Co., Ltd., 10-6, 7-Chome, Ginza, Chuo-Ku, Tokyo 104 Japan.

Approval No. 164.009/273/10, "Rockmarine Panel, Types N, P, and F" steel-faced mineral wool panels, manufactured by Nichias Corporation 1-26, Shibadaimon, 1-Chome, Minato-Ku, Tokyo 105, Japan.

Approval No. 164.009/274/0, Type 3019 Gullfiber, Manufactured by Gullfiber AB, 26050 Billesholm, Sweden.

Approval No. 164.009/275/0, Type 3030 Gullfiber, Manufactured by Gullfiber AB, 26050 Billesholm, Sweden.

Structural Ceilings

Approval No. 164.010/8/0, TNF Type C55 continuous ceiling, manufactured by Rockment A/S, Hovedgaden 501, DK-2840 Hedehusene, Denmark.

Approval No. 164.010/9/0, TNF Type C54 continuous ceiling, manufactured by Rockment A/S, Hovedgaden 501, DK-2840 Hedehusene, Denmark.

Approval No. 164.010/10/0, Rockmarine Type MGB-20 continuous ceiling, manufactured by Nichias Corporation, 1-26, Shibadaimon, 1-Chome, Minato-Ku, Tokyo 105, Japan.

Approval No. 164.011/1/0, Rockmarine Type MGB-20 continuous ceiling, manufactured by Nichias Corporation, 1-26, Shibadaimon, 1-Chome, Minato-Ku, Tokyo 105, Japan.

Interior Finish

Approval No. 164.012/29/0, Type 604 melamine laminate, manufactured by Ralph Wilson Plastics Co., 600 General Bruce Drive, Temple, TX 76501-5199.

Approval No. 164.012/30/0, Type 607 melamine laminate, manufactured by Ralph Wilson Plastics Co., 600 General Bruce Drive, Temple, TX 76501-5199.

Approval No. 164.012/40/0, "Melanito NVA" and "NP" decorative melamine laminates, manufactured by Nitto Boseki Co., Ltd., 8-1, Yaesu 2-Chome Tokyo, Japan.

Approval No. 164.012/46/0, Type 264 plastic laminate, manufactured by Ralph Wilson Plastics Co., 600 General Bruce Drive, Temple, TX 76501-5199.

Approval No. 164.012/78/0, Type 606 plastic laminate, manufactured by Ralph Wilson Plastics Co., 600 General Bruce Drive, Temple, TX 76501-5199.

Approval No. 164.012/82/0, Type PPO 40 0.9S plastic laminate, manufactured by Perstorp AB, P.O. 500, Perstorp, Sweden.

Approval No. 164.012/83/0, PVC film Type 03801, manufactured by Alkor GmbH, Morgensternstrasse 9, D-8000 München 71, Federal Republic of Germany.

Approval No. 164.012/85/0, Types I-G and I-H vinyl laminated fabric wall coverings, manufactured by The B.F. Goodrich Company, Oak Grove, P.O. Box 657, Marietta, OH 45750.

Approval No. 164.012/86/0, Type 111-D fabric-backed vinyl wall covering, manufactured by The B.F. Goodrich Company, Oak Grove, P.O. Box 657, Marietta, OH 45750.

Dated: June 12, 1985.

B.G. Burns,

Captain, U.S. Coast Guard, Acting Chief,
Office of Merchant Marine Safety.

[FR Doc. 85-14454 Filed 6-14-85; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Flight Service Station at Oklahoma City, OK; Notice of Closing

Notice is hereby given that on or about September 30, 1985, the Flight Service Station (FSS) at Oklahoma City, Oklahoma, will be closed. Services to the general aviation public of Oklahoma City, formerly provided by this FSS, will be provided by the Automated Flight Service Station (AFSS) in McAlester, Oklahoma. This information will be reflected in the FAA Organization Statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354.)

C.R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 85-14518 Filed 6-14-85; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Marion County, City of Indianapolis, IN

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed highway project in Indianapolis, Marion County, Indiana.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Tucker, District Engineer, Federal Highway Administration, Federal Office Building, 575 North Pennsylvania Street, Room 254, Indianapolis, Indiana 46204. Telephone: (317) 269-7492.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Indiana Department of Highways and the City of Indianapolis will prepare and EIS for the improvements of Harding Street located in Indianapolis, Indiana, on the near westside, Marion County, from I-465 on the south to Washington Street on the north. The proposal intends to reroute and upgrade this segment of Harding Street to improve its ability to operate as a primary arterial roadway as it is classified in the "Official Throughfare Plan" of the City of Indianapolis adopted in 1983. Four 12-foot lanes with curb and gutter and 16-foot median is planned for the portion from I-465 on the south to I-70 on the north and six 12-foot lanes with curb and gutter and 16-foot median from I-70 to Washington Street. A minimum right-of-way width of either 100 or 120 feet is required, depending on the number of lanes. Total maximum length of the project is approximately 4.85 miles. Construction of several new bridges will be required over Lick Creek, the White River and railroad grade separations. The existing bridges along Harding Street will be utilized for one direction of traffic.

Three construction alternatives are under consideration for the segment of the project between I-70 and Washington Street. One alternate connects Harding Street to Washington Street on alignment parallel to Conrail Belt Railway. A second alternate under consideration would align with existing Reichwein Avenue to connect to Washington Street. The third alternate is to connect Harding Street with Washington Street through Belmont Avenue. For the segment of the project between I-70 and Kentucky two horizontal alignments are under consideration to utilize the existing Harding Street right-of-way and acquire the needed additional right-of-way from either the east side only or the west side only. The do-nothing alternate will also be considered.

Letters describing the proposed action and soliciting comments have been sent to 17 federal, state, and local agencies, 11 businesses and 31 community organizations. Due to the diversity in nature of land uses along the corridor, meetings were held with a number of these organizations and businesses. The opportunity for a public hearing will be advertised, public notice will be given of the time and place of the public hearing. The draft EIS will be available for public agency review and comments. Based on Early Coordination responses received from various agencies, a formal scoping meeting will not be necessary.

(Catalog of Federal Domestic Assistance Program No. 20.205, [Highway Research, Planning and Construction], the provisions of Executive Order 12372 regarding state and local inter-governmental review of Federal and Federally-assisted programs and projects apply to this program.)

Issued on: June 5, 1985.

L.D. Tucker,

District Engineer.

[FR Doc. 85-14501 Filed 6-14-85; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. IP85-9; Notice 1]

General Motors Corp.; Receipt of Petition for Determination of Inconsequential Noncompliance

General Motors Corporation, of Warren, Michigan, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.105, Motor Vehicle Safety Standard No. 105, *Hydraulic Brake Systems*, on the basis that it is inconsequential as it relates to motor vehicle safety.

This Notice of Receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S5.3.2 of Federal Motor Vehicle Safety Standard No. 105, requires that the brake system indicator lamps be activated as a check when the ignition is turned on or during starting in a position designated by the manufacturer. General Motors has produced 24,051 1984 model year and 3,098 1985 model year Chevrolet Camaro Berlinga vehicles, manufactured prior to mid-December 1984, in which the brake warning lamp does not light up as a check function.

General Motors states that the brake failure warning circuit is not affected by this noncompliance. In addition, the lamp is illuminated when the parking brake is applied; application of the parking brake thus serves as a check of the lamp, and is part of the vehicle starting procedure recommended by the Owners Manual. General Motors also claims that this condition could only prove hazardous to motor vehicle safety if it so happens that the bulb fails prior to a brake system hydraulic failure; instrument cluster lamps rarely fail as they are expected to last the life of the

car. General Motors states that the number of vehicles involved is both fixed and relatively small.

Interested persons are invited to submit written data, views and arguments on the petition of the General Motors Corporation described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the Notice will be published in the *Federal Register* pursuant to the authority indicated below.

Comment closing date: July 17, 1985.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on June 12, 1985.

Barry Felrice,

Associate Administrator for Rulemaking,
[FR Doc. 85-14503 Filed 6-14-85; 8:45 am]

BILLING CODE 4910-59-M

Federal Highway Administration

Environmental Impact Statement; Sumner County, Tennessee

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed project in Sumner County, Tennessee.

FOR FURTHER INFORMATION CONTACT:

Mr. Thomas J. Ptak, Division Administrator, Federal Highway Administration, Federal Building, U.S. Courthouse, 801 Broadway—Suite A-926, Nashville, Tennessee 37203, telephone (615) 251-5394.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Tennessee Department of Transportation will prepare an environmental impact statement (EIS) on a proposal to construct a four-lane limited access controlled highway on new location from SR-109 south of Gallatin to SR-109 north of Gallatin, Sumner County, Tennessee. The proposed improvement would have a length of approximately 6.2 miles. Improvements to the corridor are considered necessary to provide for the existing and projected traffic demands.

Options under consideration include (1) taking no action; (2) postponement; (3) reduced facility design; and (4) constructing a four-lane divided roadway on new location.

Letters describing the proposed action and soliciting comments were sent to appropriate federal, state and local agencies in March of 1985. A public hearing will be held at a future date. Public notice will be given of the time and place of this hearing. The draft EIS will be available for public and agency review and comment. These activities are providing input regarding the scope of the EIS.

To insure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and suggestions concerning the proposed action and the EIS should be directed to the FHWA at the address provided above. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of Executive Order 12372 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Issued On: June 6, 1985.

Ira D. Degges,

Acting Division Administrator.

[FR Doc. 85-14479 Filed 6-14-85; 8:45 am]

BILLING CODE 4910-22-M

Sunshine Act Meetings

Federal Register

Vol. 50, No. 116

Monday, June 17, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:00 a.m. (eastern time), Monday, June 17, 1985.

CHANGE IN THE MEETING: 11:00 a.m. (eastern time), Monday, June 17, 1985.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

In Favor of Change:

Clarence Thomas, Chairman
Tony E. Gallegos, Commissioner
William A. Webb, Commissioner
Fred W. Alvarez, Commissioner
R. Gaull Silberman, Commissioner

CONTACT PERSON FOR MORE

INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat, (202) 634-6748.

This Notice Issued June 12, 1985.

Dated: June 12, 1985.

Cynthia C. Matthews,

Executive Officer, Executive Secretariat.

[FR Doc. 85-14541 Filed 6-13-85; 10:38 am]

BILLING DATE 6750-06-M

2

FARM CREDIT ADMINISTRATION

Federal Farm Credit Board: Special Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of a special meeting of the Federal Farm Credit Board ("Federal Board").

DATES AND TIMES: The special meeting is scheduled as follows: Thursday, July 18—8:00 a.m. to 4:30 p.m., and Friday, July 19—8:00 a.m. to 12:00 Noon.

ADDRESS: Federal Farm Credit Board Special Meeting, Farm Credit Banks of Jackson, Farm Credit Banks Building, 1800 East County Line Road, Ridgeland, Mississippi 39157.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Auberger, Secretary to the Federal Farm Credit Board, 1501 Farm Credit Drive, McLean, VA 22102-5090, (703-883-4010).

SUPPLEMENTARY INFORMATION: A special meeting of the Federal Farm Credit Board has been called and will be held on July 18-19, 1985. The matters to be considered at the special meeting are:

Thursday, July 18

1. Joint Meeting with Farm Credit Board of Jackson

(a) Overview of the Jackson District by Management

(b) Discussion of Issues:

1. Proposed Legislation Granting the FCA Intermediate Enforcement Authorities, and Other Legislative Proposals of System Interest.

2. FCA's Position on the "Farm Credit Central Services Corporation."

3. Methods of Consolidating System Capital

*4. Systemwide Financial Assistance Programs

5. FCA's Role as a Federal Financial Institution Regulator

(a) Arms-length Relationship with System

(b) Proposed Disclosure Regulations

(c) CPA Audits of Farm Credit Institutions

Friday, July 19

*Update on Areas of Examination and Supervisory Concerns

Dated: June 13, 1985.

Donald E. Wilkinson,

Governor.

[FR Doc. 85-14579 Filed 6-13-85; 1:01 pm]

BILLING CODE 6705-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 8:12 p.m. on Tuesday, June 11, 1985, the Board of Directors of the Federal

*This session of the meeting will be closed to the public pursuant to the exemptions set forth in 5 U.S.C. 552b(c) (8) and (9).

Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in American National Bank of Riverton, Riverton, Wyoming, which was closed by the Acting Comptroller of the Currency on Tuesday, June 11, 1985; (2) accept the bid for the transaction submitted by First Wyoming Bank, National Association-Riverton, Riverton, Wyoming, a newly-chartered national bank; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director H. Joe Selby (Acting Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: June 12, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-14573 Filed 6-13-85; 11:52 am]

BILLING DATE 6714-01-M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

June 12, 1985.

TIME AND DATE: 10:00 a.m., Tuesday, June 18, 1985.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. U.S. Steel Mining Co., Inc., Docket No. PENN 83-129. (Issues include whether the

administrative law judge properly found that a violation of 30 CFR § 75.316 was not "significant and substantial" and whether he properly found that the operator violated 30 CFR § 75.200.)

It was determined by a unanimous vote of Commissioners that a meeting be held on this item and that no earlier announcement of the meeting was possible. 5 U.S.C. § 552(e)(1).

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commissioner in advance of those needs. Thus, the Commission may, subject to the limitations of 29 CFR § 2706.150(a)(3) and § 2706.160(e), ensure access for any handicapped person who gives reasonable advance notice.

CONTACT PERSON FOR MORE

INFORMATION: Jean Ellen (202) 653-5632.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 85-14562 Filed 6-13-85; 11:52 am]

BILLING DATE 6735-01-M

5**LEGAL SERVICES CORPORATION****Legal Services Corporation Special Committee on Presidential Search**

TIME AND DATE: Meeting will commence at 9 A.M., Monday, June 24, 1985 and continue until all official business is completed.

PLACE: Capitol Holiday Inn, 550 C Street, SW., Jupiter Room, Washington, D.C. 20024.

STATUS OF MEETING: Closed to discuss matters related to Presidential Search as authorized under the Government in the Sunshine Act (5 U.S.C. 552b(c)(2), (6) and (9)(B)) and 45 CFR 1622.5(a), (e), and (g) and 1622.6(b).

MATTERS TO BE CONSIDERED:

1. Adoption of Agenda
2. Adoption of Draft Minutes—June 9, 1985
3. Review of Procedures
4. Interviews

CONTACT PERSON FOR MORE

INFORMATION: Tim Baker, Office of General Counsel, (202) 272-4010.

Date Issued: June 14, 1985.

Dennis Daugherty,

Acting Secretary.

[FR Doc. 85-14676 Filed 6-14-85; 11:45 am]

BILLING CODE 6820-35-M

[The text on this page is extremely faint and illegible. It appears to be a multi-column document, possibly a ledger or a list, with several columns of text separated by vertical lines. The content is too faded to transcribe accurately.]

Registered Patent Federal Register

Monday
June 17, 1985

Part II

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 357

Orally Administered Drug Products for
the Treatment of Fever Blisters for Over-
the-Counter Human Use; Tentative Final
Monograph; Proposed Rulemaking

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration****21 CFR Part 357****[Docket No. 81N-0060]****Orally Administered Drug Products for the Treatment of Fever Blisters for Over-the-Counter Human Use; Tentative Final Monograph****AGENCY:** Food and Drug Administration.**ACTION:** Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking in the form of a tentative final monograph that would establish conditions under which over-the-counter (OTC) orally administered drug products for the treatment of fever blisters are generally recognized as safe and effective and not misbranded. FDA is issuing this notice of proposed rulemaking after considering the report and recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products and public comments on an advance notice of proposed rulemaking that was based on those recommendations. This proposal is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments, objections, or requests for oral hearing on the proposed regulation before the Commissioner of Food and Drugs by August 16, 1985. New data by June 17, 1986. Comments on the new data by August 18, 1986. These dates are consistent with the time periods specified in the agency's revised procedural regulations for reviewing and classifying OTC drugs (21 CFR 330.10). Written comments on the agency's economic impact determination by October 15, 1985.

ADDRESS: Written comments, objections, new data, or requests for oral hearing to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5900 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drugs and Biologics (HFN-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In the Federal Register of January 5, 1982 (47 FR 502), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC orally administered drug products for the treatment of fever blisters, together with

the recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products, which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by April 5, 1982. Reply comments in response to comments filed in the initial comment period could be submitted by May 5, 1982.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration (address above), after deletion of a small amount of trade secret information. In response to the advance notice of proposed rulemaking, two physicians submitted comments. Copies of the comments received are on public display in the Dockets Management Branch.

In order to conform to terminology used in the OTC drug review regulations (21 CFR 330.10), the present document is designated as a "tentative final monograph." Its legal status, however, is that of a proposed rule. In this tentative final monograph (proposed rule) to establish Part 357, Subpart H (21 CFR Part 357, Subpart H), FDA states for the first time its position on the establishment of a monograph for OTC orally administered drug products for the treatment of fever blisters. Final agency action on this matter will occur with the publication at a future date of a final rule for OTC orally administered drug products for the treatment of fever blisters.

This proposal constitutes FDA's tentative adoption of the Panel's conclusions and recommendations on OTC orally administered drug products for the treatment of fever blisters, based on the comments received and the agency's independent evaluation of the Panel's report.

The OTC procedural regulations (21 CFR 330.10) have been revised to conform to the decision in *Cutler v. Kennedy*, 475 F. Supp. 838 (D.D.C. 1979). (See the Federal Register of September 29, 1981; 46 FR 47730.) The Court in *Cutler* held that the OTC drug review regulations were unlawful to the extent that they authorized the marketing of Category III drugs after a final monograph had been established. Accordingly, this provision has been deleted from the regulations, which now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other

data, must be done during the OTC drug rulemaking process before the establishment of a final monograph.

Although it was not required to do so under *Cutler*, FDA will no longer use the terms "Category I" (generally recognized as safe and effective and not misbranded), "Category II" (not generally recognized as safe and effective or misbranded), and "Category III" (available data are insufficient to classify as safe and effective, and further testing is required) at the final monograph stage, but will use instead the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Categories I, II, and III at the tentative final monograph stage.

The agency advises that the conditions under which the drug products that are subject to this monograph would be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication of the final monograph in the Federal Register. On or after that date, no OTC drug products that are subject to the monograph and that contain nonmonograph conditions, i.e., conditions that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved new drug application (NDA). Further, any OTC drug products subject to this monograph that are repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In the advance notice of proposed rulemaking for OTC orally administered drug products for the treatment of fever blisters (published in the Federal Register of January 5, 1982; 47 FR 502), the agency suggested that the conditions included in the monograph (Category I) be effective 6 months after the date of publication of the final monograph in the Federal Register. Experience has shown that relabeling of products covered by the monograph is necessary in order for manufacturers to comply with the monograph. New labels containing the monograph labeling have to be written, ordered, received, and incorporated into the manufacturing process. The agency

has determined that it is impractical to expect new labeling to be in effect 6 months after the date of publication of the final monograph. Experience has shown also that if the deadline for relabeling is too short, the agency is burdened with extension requests and related paperwork.

In addition, some products may have to be reformulated to comply with the monograph. Reformulation often involves the need to do stability testing on the new product. An accelerated aging process may be used to test a new formulation; however, if the stability testing is not successful, and if further reformulation is required, there could be a further delay in having a new product available for manufacture.

The agency wishes to establish a reasonable period of time for relabeling and reformulation in order to avoid an unnecessary disruption of the marketplace that could not only result in economic loss, but also interfere with consumers' access to safe and effective drug products. Therefore, the agency is proposing that the final monograph be effective 12 months after the date of its publication in the **Federal Register**. The agency believes that within 12 months after the date of publication most manufacturers can order new labeling and reformulate their products and have them in compliance in the marketplace. However, if the agency determines that any labeling for a condition included in the final monograph should be implemented sooner, a shorter deadline may be established. Similarly, if a safety problem is identified for a particular nonmonograph condition, a shorter deadline may be set for removal of that condition from OTC drug products.

In the event that new data submitted to the agency during the allotted 12-month comment and new data period are not sufficient to establish "monograph conditions" for OTC orally administered drug products for the treatment of fever blisters, the final rule will declare these products to be new drugs under section 201(p) of the Federal Food, Drug, and Cosmetic Act, for which new drug applications approved under section 505 of the act and 21 CFR Part 314 are required for marketing. Such rule will also declare that in the absence of an approved new drug application, these products would be misbranded under section 502 of the act. The rule will then be incorporated into 21 CFR Part 310, Subpart E—Requirements for Specific New Drugs or Devices, instead of into an OTC drug monograph in Part 357.

I. The Agency's Tentative Conclusions on the Comments

Two comments from physicians concurred with the Panel's recommendations regarding the Category III status of drug product ingredients used in the treatment of fever blisters. One physician stated that although there have been various isolated reports of success in treating patients with lysine, there is a need for a double-blind study with substantial numbers of patients, adequate documentation, and careful observation for subtle differences between the control group and the lysine-treated group.

In the other comment, a physician presented a brief summary of results obtained from using lysine tablets in about 7 to 10 cases of frequent recurrent herpes simplex and from using a product containing *Lactobacillus acidophilus* and *Lactobacillus bulgaricus*. Some patients thought that the lysine tablets reduced the recurrence rate; others thought the tablets useless. In reference to the *Lactobacillus acidophilus*-*Lactobacillus bulgaricus* product, the physician stated that this product was rarely used and then only in cases of chronic aphthous stomatitis (canker sore) over a prolonged period of time. The physician concluded that the results were not impressive.

The agency agrees that more data, generated from well-controlled double-blind studies, are needed to establish general recognition of safety and effectiveness for OTC orally administered active ingredients used in the treatment of fever blisters.

The Panel did not classify any of the ingredients it reviewed in Category I, but did recommend that lysine (lysine hydrochloride), *Lactobacillus acidophilus* and *Lactobacillus bulgaricus* be classified in Category III. (See 47 FR 506.)

No new data and information in support of the safety and effectiveness of any condition reviewed by the Panel has been submitted to the agency. In this tentative final monograph the agency concurs with the Panel's recommendations; however, should data establishing the safety and effectiveness of any condition subject to this rulemaking be received during the comment and new data periods following publication of this tentative final monograph, the agency will include those conditions in the final monograph.

II. The Agency's Tentative Adoption of the Panel's Report

Summary of Ingredient Categories and Testing of Category II and Category III Conditions

A. Summary of ingredient categories. The agency has reviewed all claimed active ingredients submitted to the Panel, as well as other data and information available at this time, and concurs with the Panel's classification of these ingredients. For the convenience of the reader the following table is included as a summary of the categorization of OTC orally administered fever blister active ingredients:

| Orally administered fever blister active ingredients | Panel | Agency |
|--|-------|--------|
| <i>Lactobacillus acidophilus</i> | III | III |
| <i>Lactobacillus bulgaricus</i> | III | III |
| Lysine (lysine hydrochloride) | III | III |

The agency is not aware of any data demonstrating the safety and effectiveness of any ingredients not listed above when used OTC as orally administered drug products for the treatment of fever blisters, including those listed in the Panel's report at 47 FR 504, Part I, paragraph C.2. Therefore, the agency classifies all other ingredients as Category II for this use.

B. Testing of Category II and Category III conditions. The Panel recommended testing guidelines for OTC orally administered drug products for the treatment of fever blisters (47 FR 502). The agency is offering these guidelines as the Panel's recommendations without adopting them or making any formal comment on them. Interested persons may communicate with the agency about the submission of data and information to demonstrate the safety or effectiveness of any orally administered fever blister ingredient or condition included in the review by following the procedures outlined in the agency's policy statement published in the **Federal Register** of September 29, 1981 (46 FR 47740) and clarified April 1, 1983 (48 FR 14050). This policy statement includes procedures for the submission and review of proposed protocols, agency meetings with industry or other interested persons, and agency communications on submitted test data and other information.

The agency has examined the economic consequences of this proposed rulemaking in conjunction with other rules resulting from the OTC drug review. In a notice published in the **Federal Register** of February 8, 1983 (48 FR 5806), the agency announced the

availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules, including this proposed rule for OTC orally administered drug products for the treatment of fever blisters, is a major rule.

For purposes of the Regulatory Flexibility Act, Pub. L. 96-354, the economic assessment concluded that, while the average economic impact of the overall OTC drug review on small entities will not be significant, the possibility of larger-than-average impacts on some small firms in some years might exist. Therefore, the assessment included a discretionary regulatory flexibility analysis in the event that an individual rule might impose a significant impact on a substantial number of small entities. The analysis identified the possibilities of reducing burdens on small firms through the use of (a) relaxed safety and efficacy standards or (b) labels acknowledging unproven safety and efficacy. However, the analysis concluded that there is no legal basis for any preferential waiver, exemption, or tiering strategy for small firms compatible with the public health requirements of the Federal Food, Drug, and Cosmetic Act. Nevertheless, to avoid overlooking any problems or feasible possibilities of relief peculiar to this group of products, the agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC orally administered drug products for the treatment of fever blisters. Comments regarding the economic impact of this rulemaking should be accompanied by appropriate documentation.

The agency previously invited public comment in the advance notice of proposed rulemaking regarding any impact that this rulemaking would have on OTC orally administered drug products for the treatment of fever blisters. No comments on economic impacts were received. Any comments on the agency's initial determination of the economic consequences of this proposed rulemaking should be submitted by October 15, 1985. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

The agency has determined that under 21 CFR 25.24(c)(6) (April 26, 1985; 50 FR

16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Exclusivity of Labeling

In the Federal Register of April 22, 1985 (50 FR 15810), the agency proposed to change its "exclusivity" policy for the labeling of OTC drug products that has existed during the course of the OTC drug review. Under this policy, the agency has maintained that the terms that may be used in an OTC drug product's labeling are limited to those terms included in a final OTC drug monograph.

The proposed rule would establish three alternatives for stating the indications for use in OTC drug labeling while all other aspects of OTC drug labeling (i.e., statement of identity, warnings, and directions for use) would continue to be subject to the existing exclusivity policy. The proposed rule for OTC orally administered drug products for the treatment of fever blisters included in this document incorporates the exclusivity proposal by providing for the use of other truthful or nonmisleading statements in the product's labeling to describe the indications for use. After considering all comments submitted on the proposed revision to the exclusivity rule, the agency will announce its final decision on this matter in a future issue of the Federal Register. The final rule for OTC orally administered drug products for the treatment of fever blisters will incorporate the final decision on exclusivity of labeling.

Interested persons may, on or before August 16, 1985 submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments, objections, or requests for oral hearing before the Commissioner on the proposed regulation. A request for an oral hearing must specify points to be covered and time requested. Written comments on the agency's economic impact determination may be submitted on or before October 15, 1985. Three copies of all comments, objections, and requests are to be submitted, except that individuals may submit one copy. Comments, objections, and requests are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments, objections, and requests

may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the Federal Register.

Interested persons, on or before June 17, 1985, may also submit in writing new data demonstrating the safety and effectiveness of those conditions not classified in Category I. Written comments on the new data may be submitted on or before August 18, 1986. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the Federal Register of September 29, 1981 (46 FR 47730). Three copies of all data and comments on the data are to be submitted, except that individuals may submit one copy, and all data and comments are to be identified with the docket number found in brackets in the heading of this document. Data and comments should be addressed to the Dockets Management Branch (HFA-305) (address above). Received data and comments may also be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

In establishing a final rule, the agency will ordinarily consider only data submitted prior to the closing of the administrative record on August 18, 1986. Data submitted after the closing of the administrative record will be reviewed by the agency only after a final rule is published in the Federal Register, unless the Commissioner finds good cause has been shown that warrants earlier consideration.

List of Subjects in 21 CFR Part 357

OTC drugs; anthelmintic drug products, cholecystokinetic drug products, deodorant drug products for internal use, orally administered drug products for fever blisters, poison treatment drug products, and smoking deterrent drug products.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Administrative Procedure Act, it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended in Part 357 by adding new Subpart H, to read as follows:

PART 357—MISCELLANEOUS INTERNAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

• • • • •

Subpart H—Orally Administered Drug Products for the Treatment of Fever Blisters

Sec.

357.701 Scope.

357.703 Definitions.

357.710 Orally administered active ingredients for the treatment of fever blisters. [Reserved]

357.750 Labeling of orally administered drug products for the treatment of fever blisters.

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); (5 U.S.C. 553); 21 CFR 5.11.

Subpart H—Orally Administered Drug Products for the Treatment of Fever Blisters

§ 357.701 Scope.

(a) An over-the-counter drug product for the treatment of fever blisters in a form suitable for oral administration is generally recognized as safe and effective and is not misbranded if it meets each condition in this subpart and each general condition established in § 330.1.

(b) References in this subpart to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

§ 357.703 Definitions.

As used in this subpart:

(a) *Fever blisters*. Recurrent sores on the lips and other areas around the mouth, usually caused by herpes simplex virus, Type I. Characterized by local tissues swelling followed by inflammation, the sores evolve into vesicular eruptions and then crust and fade.

(b) *Cold sores*. Fever blisters.

§ 357.710 Orally administered active ingredients for the treatment of fever blisters. [Reserved]

§ 357.750 Labeling of orally administered drug products for the treatment of fever blisters.

(a) *Statement of identity*. The labeling of the product contains the established name of the drug, if any, and identifies the product as a "fever blister treatment."

(b) *Indications*. The labeling of the product states, under the heading

"Indications," the following: "For the relief of the discomfort of fever blisters (cold sores)." Other truthful and nonmisleading statements, describing only the indications for use that have been established and listed above, may also be used, as provided in § 330.1(c)(2) of this chapter, subject to the prohibitions in section 502(a) of the act against misbranding by the use of false or misleading labeling and the prohibition in section 301(d) of the act against the introduction into interstate commerce of unapproved new drugs.

(c) *Warnings*. The warning required by § 330.1(g) concerning overdoses is not required on orally administered active ingredients for the treatment of fever blisters.

(d) *Directions*. [Reserved].

Frank E. Young,

Commissioner of Food and Drugs.

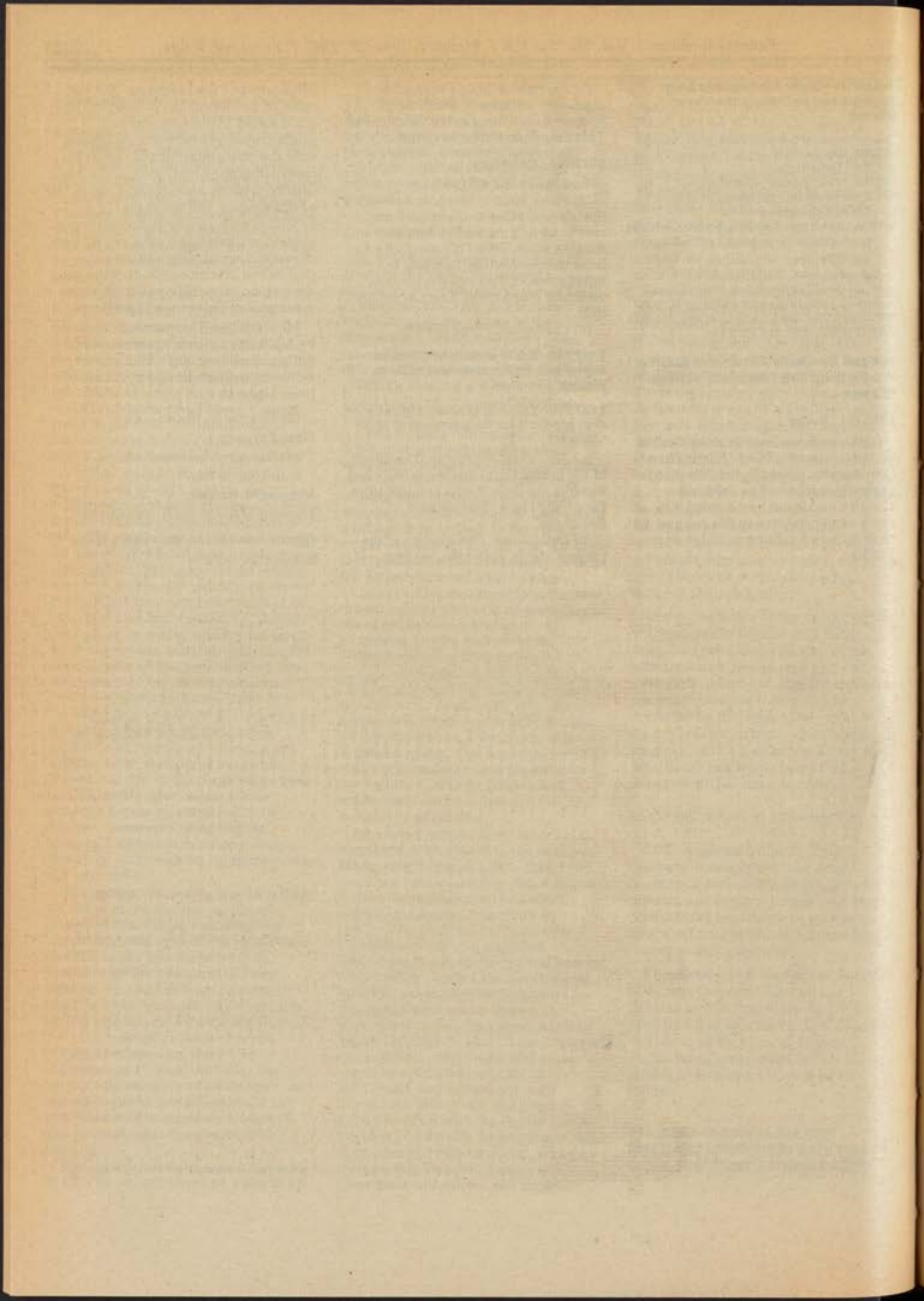
Dated: May 6, 1985.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 85-14440 Filed 6-14-85; 8:45 am]

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Monday
June 17, 1985

Part III

**Department of
Health and Human
Services**

Food and Drug Administration

21 CFR Part 357

**Deodorant Drug Products for Internal
Use for Over-the-Counter Human Use;
Tentative Final Monograph; Proposed
Rulemaking**

DEPARTMENT OF HEALTH AND HUMAN SERVICES**21 CFR Part 357**

[Docket No. 81N-0064]

Deodorant Drug Products for Internal Use for Over-the-Counter Human Use; Tentative Final Monograph**AGENCY:** Food and Drug Administration.**ACTION:** Notice of Proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking in the form of a tentative final monograph that would establish conditions under which over-the-counter (OTC) deodorant drug products for internal use are generally recognized as safe and effective and not misbranded. FDA is issuing this notice of proposed rulemaking after considering the report and recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products and public comments on an advance notice of proposed rulemaking that was based on those recommendations. This proposal is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments, objection, or requests for oral hearing on the proposed regulation before the Commissioner of Food and Drugs by August 16, 1985. New data by June 17, 1986. Comments on the new data by August 18, 1986. These dates are consistent with the time periods specified in the agency's revised procedural regulations for reviewing and classifying OTC drugs (21 CFR 330.10). Written comments on the agency's economic impact determination by October 15, 1985.

ADDRESS: Written comments, objections, new data, or requests for oral hearing to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

William E. Gilbertson, Center for Drugs and Biologics (HFN-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In the Federal Register of January 5, 1982 (47 FR 512) FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC deodorant drug products for internal use, together with the recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products, which was the advisory review panel

responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by April 5, 1982. Reply comments in response to comments filed in the initial comment period could be submitted by May 5, 1982.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration (address above), after deletion of a small amount of trade secret information.

In response to the advance notice of proposed rulemaking, two individuals and one manufacturer submitted comments. Copies of the comments received are on public display in the Docket Management Branch.

In order to conform to terminology used in the OTC drug review regulations (21 CFR 330.10), the present document is designated as a "tentative final monograph." Its legal status, however, is that of a proposed rule. In this tentative final monograph (proposed rule) to establish Part 357, Subpart I (21 CFR Part 357, Subpart I) FDA states for the first time its position on the establishment of a monograph for OTC deodorant drug products for internal use. Final agency action on this matter will occur with the publication at a future date of a final monograph, which will be a final rule establishing a monograph for OTC deodorant drug products for internal use.

This proposal constitutes FDA's tentative adoption of the Panel's conclusions and recommendations on OTC deodorant drug products for internal use as modified on the basis of the comments received and the agency's independent evaluation of the Panel's report. Modifications have been made for clarity and regulatory accuracy and to reflect new information. Such new information has been placed on file in the Dockets Management Branch (address above). These modifications are reflected in the following summary of the comments and FDA's responses to them.

The OTC procedural regulations (21 CFR 330.10) have been revised to conform to the decision in *Cutler v. Kennedy*, 475 F. Supp. 838 (D.D.C. 1979). (See the Federal Register of September 29, 1981; 46 FR 47730.) The Court in *Cutler* held that the OTC drug review regulations were unlawful to the extent that they authorized the marketing of Category III drugs after a final monograph had been established. Accordingly, this provision has been deleted from the regulations, which now provide that any testing necessary to

resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph.

Although it was not required to do so under *Cutler*, FDA will no longer use the terms "Category I" (generally recognized as safe and effective and not misbranded), "Category II" (not generally recognized as safe and effective or misbranded), and "Category III" (available data are insufficient to classify as safe and effective, and further testing is required) at the final monograph stage, but will use instead the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Categories I, II, and III at the tentative final monograph stage.

The agency advises that the conditions under which the drug products that are subject to this monograph would be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication of the final monograph in the Federal Register. On or after that date, no OTC drug products that are subject to the monograph and that contain nonmonograph conditions, i.e., conditions that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved new drug application (NDA). Further, any OTC drug products subject to this monograph that are repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In the advance notice of proposed rulemaking for OTC deodorant drug products for internal use (published in the Federal Register of January 5, 1982; 47 FR 512), the agency suggested that the conditions included in the monograph (Category I) be effective 6 months after the date of publication of the final monograph in the Federal Register. Experience has shown that relabeling of products covered by the monograph is necessary in order for manufacturers to comply with the monograph. New labels

containing the monograph labeling have to be written, ordered, received, and incorporated into the manufacturing process. The agency has determined that it is impractical to expect new labeling to be in effect 6 months after the date of publication of the final monograph. Experience has shown also that if the deadline for relabeling is too short, the agency is burdened with extension requests and related paperwork.

In addition, some products may have to be reformulated to comply with the monograph. Reformulation often involves the need to do stability testing on the new product. An accelerated aging process may be used to test a new formulation; however, if the stability testing is not successful, and if further reformulation is required, there could be further delay in having a new product available for manufacture.

The agency wishes to establish a reasonable period of time for relabeling and reformulation in order to avoid an unnecessary disruption of the marketplace that could not only result in economic loss, but also interfere with consumers' access to safe and effective drug products. Therefore, the agency is proposing that the final monograph be effective 12 months after the date of its publication in the *Federal Register*. The agency believes that within 12 months after the date of publication most manufacturers can order new labeling and reformulate their products and have them in compliance in the marketplace. However, if the agency determines that any labeling for a condition included in the final monograph should be implemented sooner, a shorter deadline may be established. Similarly, if a safety problem is identified for a particular nonmonograph condition, a shorter deadline may be set for removal of that condition from OTC drug products.

All "OTC Volumes" cited throughout this document refer to the submissions made by interested persons pursuant to the call-for-data notice published in the *Federal Register* of November 16, 1973 (38 FR 31696) or to additional information that has come to the agency's attention since publication of the advance notice of proposed rulemaking. The volumes are on public display in the Dockets Management Branch.

I. The Agency's Tentative Conclusions on the Comments

In its report on OTC deodorant drug products for internal use, the Advisory Review Panel on Miscellaneous Internal Drug Products discussed five basic indications for use for these products: ostomy odor control; fecal incontinence odor control; urinary incontinence odor

control; body odor control; and surface lesion odor control. In responding to the comments received on the Panel's report, the agency has organized the issues raised, and the responses, according to the specific indications for use that are addressed.

Although chlorophyllin was used as the name of one of the ingredients evaluated by the Panel, chlorophyllin copper complex is the name for this ingredient adopted by the United States Adopted Names Council (Ref. 1) and is the name used for this ingredient in this tentative final monograph.

Reference

(1) "USAN and the USP Dictionary of Drug Names," 21st Ed., United States Pharmacopeial Convention, Inc., Rockville, MD, p. 104, 1984.

A. Comment on Ostomy Odor Control

1. Two comments supported the safety and effectiveness of bismuth subgallate as a colostomy and ileostomy deodorant and urged that it continue to be available as an OTC drug product. One comment cited 14 years and the other over 17 years of satisfactory personal use of a product containing this ingredient with no ill effects. A third comment, citing 26 years of marketing history, urged the chlorophyllin copper complex be recognized as safe and effective as a colostomy and ileostomy deodorant.

Based on the available data, the Panel concluded that bismuth subgallate and chlorophyllin copper complex are safe for use as oral deodorants, but because of a lack of well-controlled studies in support of effectiveness, the Panel concluded that additional data were necessary to establish their effectiveness.

The agency notes that although proof of effectiveness, as defined in 21 CFR 330.10(a)(4)(ii), shall consist of controlled clinical investigations as defined in 21 CFR 314.126, the regulation also provides for a waiver of this requirement if it can be shown that it is not reasonably applicable to the drug or essential to the validity of the investigation and that an alternative method of investigation is adequate to substantiate effectiveness. Investigations may be corroborated by partially controlled or uncontrolled studies, documented clinical studies by qualified experts, and reports of significant human experience during marketing.

Because the intended effect of these drug products (odor control) is not a therapeutic one, and because odor measurement is at best a subjective measurement by both patients and

investigators, the agency believes that the methods of investigation employed in the studies submitted to the Panel and the results obtained (Refs. 1, 2, and 4 through 13), along with the reports of significant human experience during marketing (Refs. 3 and 14) justify a waiver of the well-controlled study requirement.

The data for bismuth subgallate consist of one double-blind, placebo-controlled study in ileostomy patients (Ref. 1) and one uncontrolled study in both colostomy and ileostomy patients (Ref. 2). Both studies showed that the use of bismuth subgallate results in improvement in odors. In addition, reports of 20 years of successful use of this ingredient by members of the United Ostomy Association (Ref. 3) indicate that this ingredient has had long-term use with widespread patient acceptance.

Studies on chlorophyllin copper complex for control of ostomy odors consist of three uncontrolled studies (Refs. 4, 5, and 6) that report consistent results in significant improvement in odor control in both colostomy and ileostomy patients. These data are further supported by a number of additional uncontrolled studies (Refs. 7 through 13) that report consistent significant improvement in odor control in patients with fecal and urinary incontinence who use chlorophyllin copper complex. In addition, this ingredient had been in use for over 25 years with reports of widespread patient acceptance (Ref. 14).

The agency concludes that bismuth subgallate and chlorophyllin copper complex are generally recognized as safe and effective for OTC use in controlling ostomy odors. Based on the doses used in the studies cited above and on doses currently promoted for marketed products, the agency is proposing the following oral dosages: bismuth subgallate 200 to 400 milligrams (mg) up to four times daily; chlorophyllin copper complex 100 to 200 mg daily.

Activated charcoal, the third ingredient reviewed by the Panel for use in controlling ostomy odors, lacks both the amount and quality of data, as well as the history of use and marketing experience of bismuth subgallate or chlorophyllin copper complex. Therefore, activated charcoal has been retained in Category III for ostomy odor control.

References

(1) Sparberg, M., "Bismuth as an Effective Means for the Control of Ileostomy Odor, A Double-Blind Study," *Gastroenterology*, 68:476, 1974.

(2) Goldsmith, M., and N. Gill, unpublished study in OTC Volume 170172, Docket No. 81N-0064, Dockets Management Branch.

(3) Binder, D.P., Executive Director, United Ostomy Association, Inc., "Testimony on Oral Deodorants Ostomates," July 21, 1979, in OTC Volume 17PPAL, Docket No. 81N-0064, Dockets Management Branch.

(4) Weingarten, M., and B. Payson, "Deodorization of Colostomies with Chlorophyll," *The Review of Gastroenterology*, 18:602-604, 1951.

(5) Golden, T., and J.F. Burke, "Effective Management of Offensive Odors," *Gastroenterology*, 31:260-265, 1956.

(6) Siegel, L.H., "The Control of Ileostomy and Colostomy Odors," *Gastroenterology*, 38:634-638, 1960.

(7) Young, R.W., and J.S. Beregi, Jr., "Use of Chlorophyllin in the Care of Geriatric Patients," *Journal of the American Geriatrics Society*, 28:46-47, 1980.

(8) Joseph, M., "The Control of Fecal Odors with Chlorophyll Tablets," *Western Journal of Surgery, Obstetrics and Gynecology*, 60:363-364, 1952.

(9) Morrison, J.E., "Oral Tablets Help Control Ward Odors, Study Shows," *Hospital*, 33:97, 1959.

(10) Laitner, W., "Odor Control in the Incontinent Mental Patient," *Psychiatric Quarterly* (Supplement 2), 29:190-192, 1955.

(11) O'Connell, J., "A Useful Adjunct for Odor Control in Malodorous Surface Lesions and Incontinence," *Journal of the Central Islip State Hospital*, 1:23-28, 1968.

(12) Dory, A.E., "The Control of Odor in Urinary Incontinence," *Nursing Homes*, 20:28, 1971.

(13) Noonan, L., "Summary of Derifil Tablets Trial," unpublished study, Rockland State Hospital, Orangeburg, NY, April 1972 contained in OTC Volume 170014 (Exhibit Y), Docket No. 81N-0064, Dockets Management Branch.

(14) Comment No. C0003, Docket No. 81N-0064, Dockets Management Branch.

B. Comments on Fecal and Urinary Incontinence Odor Control

2. One comment urged that chlorophyllin copper complex be generally recognized as safe and effective for the reduction of fecal or urinary odor associated with incontinence in senile and mental patients in addition to its use in ostomy odor control. In light of a 26-year marketing history of chlorophyllin copper complex for the control of odors associated with incontinence, the comment objected to the Panel's placement of this ingredient in Category III for this claim and to the recommendation for two additional randomized, double-blind, placebo-controlled crossover clinical studies to prove effectiveness. The comment argued that it is unreasonable to require expensive new studies that might be less productive of valid data than the already reported long-term experience of competent practicing professionals in

hospitals, institutions, and nursing homes. In addition to citing the favorable results noted in five uncontrolled and/or unblinded studies reviewed by the Panel (Refs. 1 through 5), the comment submitted a 6-month unblinded and uncontrolled study by Young and Beregi (Ref. 6) in which successful results for the control of urinary and fecal odors were estimated to be at least 85 percent. The comment also submitted the results of two questionnaires (Ref. 7). The first questionnaire, mailed to 110 nursing homes which had purchased a chlorophyllin copper complex deodorant, resulted in 35 responses with 34 listing the product as either satisfactory or very satisfactory on a 3-point scale of unsatisfactory, satisfactory or very satisfactory. The second questionnaire, mailed to an unknown number of physicians who had requested and received samples of this same product, resulted in 65 responses listing the product as satisfactory or very satisfactory. The comment also submitted 10 testimonial letters dated between 1964 and 1981 from satisfied users of this chlorophyllin copper complex deodorant.

For the same reasons discussed in the preceding comment, the agency believes that a waiver of the well-controlled study requirement is justified for chlorophyllin copper complex for use in control of odor due to urinary or fecal incontinence. The agency concludes that the studies reviewed by the Panel and cited by the comment, as well as the reports of significant human experience during marketing are adequate to support the claims of odor control for fecal and urinary incontinence. Therefore, the agency is proposing in this tentative final monograph the claim of "an aid to reduce fecal or urinary odor due to incontinence" for chlorophyllin copper complex when used in the dosage range of 100 to 200 mg daily.

References

- (1) Dory, A.E., "The Control of Odor in Urinary Incontinence," *Nursing Homes*, 20:28, 1971.
- (2) Joseph, M., "The Control of Fecal Odors with Chlorophyll Tablets," *Western Journal of Surgery, Obstetrics and Gynecology*, 60:363-364, 1952.
- (3) Laitner, W., "Odor Control in the Incontinent Mental Patient," *Psychiatric Quarterly* (Supplement 2), 29:190-192, 1955.
- (4) Morrison, J.E., "Oral Tablets Help Control Ward Odors, Study Shows," *Hospital*, 33:97, 1959.
- (5) O'Connell, J., "A Useful Adjunct for Odor Control in Malodorous Surface Lesions and Incontinence," *Journal of the Central Islip State Hospital*, 1:23-28, 1968.

(6) Young, R.W., and J.S. Beregi, Jr., "Use of Chlorophyllin in the Care of Geriatric Patients," *Journal of the American Geriatrics Society*, 28:46-47, 1980.

(7) Comment C0003, Docket No. 81N-0064, Dockets Management Branch.

C. Comment on Body and Surface Lesion Odor Control

3. A comment requested that the recommended Category III labeling claim for chlorophyllin copper complex, "To reduce body (perspiration) odor or surface lesion odor," be expanded to permit the alternative claims, "to reduce breath and body odors not related to faulty hygiene" and "to reduce surface lesion odor." The comment argued that abnormal body odors are not always exuded in perspiration, but sometimes just seem to become part of the flesh, or are excreted by the lungs as breath odors.

The agency does not agree that breath odor claims should be included in Category III for orally ingested chlorophyllin copper complex. Although there were some limited data submitted regarding the systemic use of chlorophyllin copper complex for body odor or surface lesion odor, no data were presented to the Panel or submitted by the comment dealing with the systemic effects of this ingredient on breath odors excreted by the lungs. Therefore, breath odor claims for orally ingested chlorophyllin copper complex remains in Category II in this rulemaking.

The agency recognizes that chlorophyllin copper complex is often added to chewing gum, lozenges, mouthwashes, etc., for its local effect in reducing breath odor. However, the local effect of chlorophyllin copper complex is considered a cosmetic rather than a drug effect and is not subject to this rulemaking.

D. General Comments

4. A comment maintained that the statement recommended in § 357.850(c), "this product cannot be expected to be effective in the reduction of odor due to faulty personal hygiene" is confusing and misleading considering that a patient who is incontinent of urine or feces is certainly guilty of faulty personal hygiene.

This statement was intended by the Panel to caution colostomy and ileostomy patients that these products are not a substitute for the personal hygiene measures normally required in these conditions. However, the agency agrees with the comment that the statement may be confusing and misleading. Therefore, it has not been

proposed in this tentative final monograph.

5. A comment noted that the Panel recommended a warning statement regarding accidental overdose in accordance with § 330.1(g) of the regulations (47 FR 514). The comment requested that this warning be deleted from the labeling requirements for chlorophyllin copper complex deodorants because "no toxicity has been demonstrated for chlorophyllin copper complex administered orally in 26 years of marketing experience."

The Panel noted that chlorophyllin copper complex has extremely low potential for toxicity from accidental overdose. The median lethal dose (LD₅₀) for oral ingestion of a 15-percent aqueous solution of chlorophyllin copper complex for mice was found to be 7 grams per kilogram (g/kg) of body weight. No toxic effects were found in rats from long-term feeding of a diet containing a 3-percent concentration of chlorophyllin copper complex (Ref. 1).

Therefore, FDA is proposing in this tentative final monograph to exempt OTC oral deodorant drug products containing chlorophyllin copper complex from the warning in § 330.1(g) (21 CFR 330.1(g)) that states "In case of accidental overdose, seek professional assistance or contact a Poison Control Center immediately."

Reference

(1) Harrison, J.W.E., S.E. Levin, and B. Trabin. "The Safety and Fate of Potassium Sodium Copper Chlorophyllin and Other Copper Compounds" *Journal of American Pharmaceutical Association*, 43:722-737, 1954.

II. The Agency's Tentative Adoption of the Panel's Report

A. Summary of Ingredient Categories and Testing of Nonmonograph Conditions

1. *Summary of ingredient categories.* The agency has reviewed all claimed active ingredients submitted to the Panel, as well as other data and information available at this time and has proposed the recategorization of bismuth subgallate and chlorophyllin copper complex from Category III to Category I for use as OTC internal deodorant active ingredients. For the convenience of the reader, the following table is included as a summary of the categorization of OTC deodorant drug products for internal use active ingredients.

| Internal deodorant active ingredient | Panel | Agency |
|--------------------------------------|-------|--------|
| Bismuth subgallate | III | I |
| Charcoal, activated | III | III |
| Chlorophyllin copper complex | III | I |

The agency is not aware of any data demonstrating the safety and effectiveness of any ingredients not listed above when used as OTC deodorant drug products for internal use. Therefore, the agency is proposing all other ingredients as Category II for this use.

2. *Testing of nonmonograph conditions.* The Panel recommended testing guidelines for OTC deodorant drug products for internal use (47 FR 518). The agency is offering these guidelines as the Panel's recommendations without adopting them or making any formal comment on them. Interested persons may communicate with the agency about the submission of data and information to demonstrate the safety or effectiveness of any internal deodorant ingredient or condition included in the review by following the procedures outlined in the agency's policy statement published in the *Federal Register* of September 29, 1981 (46 FR 47740) and clarified April 1, 1983 (48 FR 14050). That policy statement includes procedures for the submission and review of proposed protocols, agency meetings with industry or other interested persons, and agency communications on submitted test data and other information.

B. Summary of the Agency's Changes in the Panel's Recommendations

FDA has considered the comments and other relevant information and concludes that it will tentatively adopt the Panel's report and recommended monograph with the changes described in FDA's responses to the comments above and with other changes described in the summary below. A summary of the changes made by the agency is as follows:

1. The agency has reclassified bismuth subgallate as safe and effective for ostomy odor control at a dose of 200 to 400 mg up to 4 times daily. (See comment 1 above.)

2. The agency has reclassified chlorophyllin copper complex as safe and effective for ostomy odor control and for fecal and urinary incontinence odor control at a dose of 100 to 200 mg daily. (See comments 1 and 2 above.)

3. The agency has not included in this tentative final monograph, the statement in recommended § 357.850(c), "This product cannot be expected to be effective in the reduction of odor due to faulty personal hygiene." (See comment 4 above.)

4. The agency has exempted chlorophyllin copper complex from the general warning regarding accidental

overdose required by § 330.1(g) of the regulations. (See comment 5 above.)

5. The agency has included the term "a colostomy or ileostomy deodorant" as an optional statement of identity rather than as an indication because the wording of this phrase is properly that of a statement of identity.

6. In an effort to simplify OTC drug labeling, the agency proposed in a number of tentative final monographs to substitute the word "doctor" for "physician" in OTC drug monographs on the basis that the word "doctor" is more commonly used and better understood by consumers. Based on comments received to these proposals, the agency has determined that final monographs and other applicable OTC drug regulations will give manufacturers the option of using either the word "physician" or the word "doctor." This tentative final monograph proposes that option.

7. The agency has added the term "incontinence" to the definitions in § 357.803 of this tentative final monograph for the sake of clarity.

The agency has examined the economic consequences of this proposed rulemaking in conjunction with other rules resulting from the OTC drug review. In a notice published in the *Federal Register* of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules, including this proposed rule for OTC deodorant drug products for internal use, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96-354. That assessment included a discretionary Regulatory Flexibility Analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for OTC deodorant drug products for internal use is not expected to pose such an impact on small businesses. Therefore, the agency certifies that this proposed rule, if implemented, will not have significant economic impact on a substantial number of small entities.

The agency invited public comment in the advance notice of proposed rulemaking regarding any impact that this rulemaking would have on OTC deodorant drug products for internal use. No comments on economic impacts were received. Any comments on the agency's initial determination of the economic consequences of this proposed rulemaking should be submitted by October 15, 1985. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

The agency has determined that under 21 CFR 25.24(c)(8) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Exclusivity of Labeling

In the Federal Register of April 22, 1985 (50 FR 15810), the agency proposed to change its "exclusivity" policy for the labeling of OTC drug products that has existed during the course of the OTC drug review. Under this policy, the agency has maintained that the terms that may be used in an OTC drug product's labeling are limited to those terms included in a final OTC drug monograph.

The proposed rule would establish three alternatives for stating the indications for use in OTC drug labeling while all other aspects of OTC drug labeling (i.e., statement of identity, warnings, and directions for use) would continue to be subject to the existing exclusivity policy. The proposed rule for OTC deodorant drug products for internal use included in this document incorporates the exclusivity proposal by providing for the use of other truthful or nonmisleading statements in the product's labeling to describe the indications for use. After considering all comments submitted on the proposed revision to the exclusivity rule, the agency will announce its final decision on this matter in a future issue of the Federal Register. The final rule for OTC deodorant drug products for internal use will incorporate the final decision on exclusivity of labeling.

Interested persons may, on or before August 16, 1985, submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments, objections, or requests for oral hearing before the

Commissioner on the proposed regulation. A request for an oral hearing must specify points to be covered and time requested. Written comments on the agency's economic impact determination may be submitted on or before October 15, 1985. Three copies of all comments, objections, and requests are to be submitted, except that individuals may submit one copy. Comments, objections, and requests are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments, objections, and requests may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the Federal Register.

Interested persons, on or before June 17, 1986, may also submit in writing new data demonstrating the safety and effectiveness of those conditions not classified in Category I. Written comments on the new data may be submitted on or before August 18, 1986. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the Federal Register of September 29, 1981 (46 FR 47730). Three copies of all data and comments on the data are to be submitted, except that individuals may submit one copy, and all data and comments are to be identified with the docket number found in brackets in the heading of this document. Data and comments should be addressed to the Dockets Management Branch (HFA-305) (address above). Received data and comments may also be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

In establishing a final monograph, the agency will ordinarily consider only data submitted prior to the closing of the administrative record on August 18, 1986. Data submitted after the closing of the administrative record will be reviewed by the agency only after a final monograph is published in the Federal Register, unless the Commissioner finds good cause has been shown that warrants earlier consideration.

List of Subjects in 21 CFR Part 357

OTC drugs; Anthelmintic drug products, Cholecystokinetic drug products, Deodorant drug products for internal use, Orally administered drug products for fever blisters, Poison treatment drug products, and Smoking deterrent drug products.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Administrative Procedure Act, it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended in Part 357 by adding new Subpart I to read as follows:

PART 357—MISCELLANEOUS INTERNAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Subpart I—Deodorant Drug Products for Internal Use

Sec.

- 357.801 Scope.
 - 357.803 Definitions.
 - 357.810 Active ingredients for deodorant drug products for internal use.
 - 357.850 Labeling of deodorant drug products for internal use.
- Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); (5 U.S.C. 553); 21 CFR 5.11.

Subpart I—Deodorant Drug Products for Internal Use

§ 357.801 Scope.

(a) An over-the-counter deodorant drug product for internal use in a form suitable for oral administration is generally recognized as safe and effective and is not misbranded if it meets each condition in this subpart and each general condition established in § 330.1.

(b) References in this subpart to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

§ 357.803 Definitions.

As used in this subpart:

- (a) *Colostomy*. An external operative opening of the colon.
- (b) *Deodorant for internal use*. An ingredient taken internally to render offensive odors less perceptible.
- (c) *Ileostomy*. An external operative opening from the ileum.
- (d) *Incontinence*. An inability to retain urine or feces.

§ 357.810 Active ingredients for deodorant drug products for internal use.

The active ingredient of the product consists of either of the following when used within the dosage limits established for each ingredient in § 357.850(d):

- (a) Bismuth subgallate.
- (b) Chlorophyllin copper complex.

§ 357.850 Labeling of deodorant drug products for internal use.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as a "deodorant for internal use" or as a "colostomy or ileostomy deodorant."

(b) *Indications.* The labeling of the product states, under the heading "Indications", the following:

(1) *For products containing bismuth subgallate identified in § 357.810(a).* "An aid to reduce odor from colostomies or ileostomies."

(2) *For products containing chlorophyllin copper complex identified in § 357.810(b).* (i) "An aid to reduce odor from colostomies or ileostomies."

(ii) "An aid to reduce fecal or urinary odor due to incontinence."

(3) Other truthful and nonmisleading statements, describing only the

indications for use that have been established and listed above, may also be used, as provided in § 330.1(c)(2) of this chapter, subject to the prohibitions in section 502(a) of the act against misbranding by the use of false or misleading labeling and the prohibition in section 301(d) of the act against the introduction into interstate commerce of unapproved new drugs.

(c) *Warnings.* The warning required by § 330.1(g) concerning overdose is not required on products containing chlorophyllin copper complex identified in § 357.810(b).

(d) *Directions.* The labeling of the product contains the following information under the heading "Directions."

(1) *For products containing bismuth subgallate identified in § 357.810(a).* Adults and children 12 years of age and over: Oral dosage is 200 to 400

milligrams up to 4 times daily. Children under 12 years of age: Consult a doctor.

(2) *For products containing chlorophyllin copper complex identified in § 357.810(b).* Adults and children 12 years of age and over: Oral dosage is 100 to 200 milligrams daily. Children under 12 years of age: Consult a doctor.

(e) The word "physician" may be substituted for the word "doctor" in any of the labeling statements in this section.

Frank E. Young,

Commissioner of Food and Drugs.

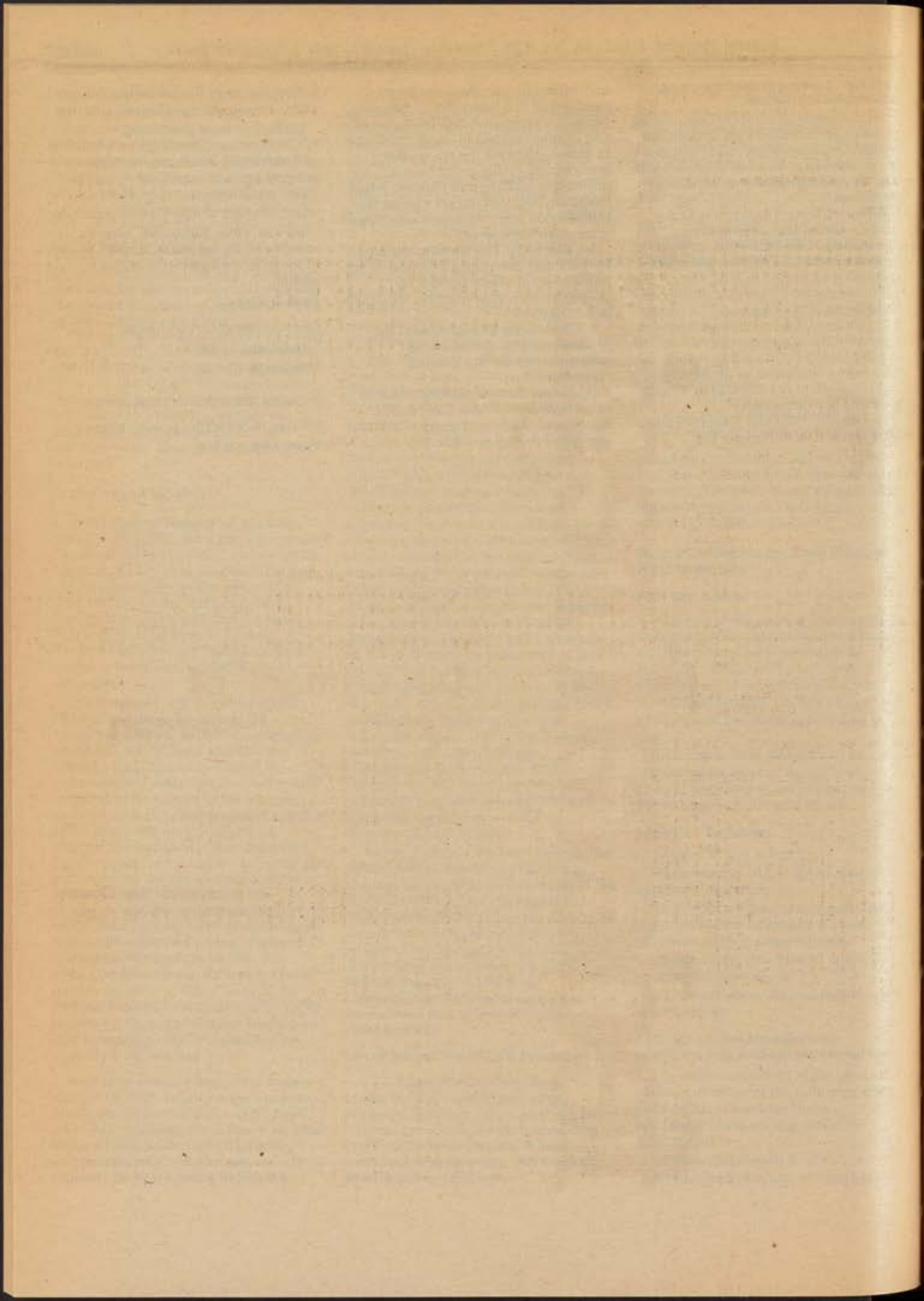
Dated: May 6, 1985.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 85-14439 Filed 6-14-85; 8:45 am]

BILLING CODE 4160-01-M



Registered Federal Patent

Monday
June 17, 1985

Part IV

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 310

Insect Repellent Drug Products for Over-the-Counter Oral Human Use; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration****21 CFR Part 310**

[Docket No. 81N-0040]

Insect Repellent Drug Products for Over-the-Counter Oral Human Use**AGENCY:** Food and Drug Administration.**ACTION:** Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule establishing conditions under which over-the-counter (OTC) insect repellent drug products for oral use (an orally administered drug product intended to keep insects away) are not generally recognized as safe and effective and are misbranded. No comments or new data were submitted in response to the agency's proposed rule. This final rule is part of the ongoing review of OTC drug products conducted by FDA.

EFFECTIVE DATE: December 17, 1985.**FOR FURTHER INFORMATION CONTACT:**

William E. Gilbertson, Center for Drugs and Biologics (HFN-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In the Federal Register of January 5, 1982 (47 FR 424), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC insect repellent drug products for oral use, together with the recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products, which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by April 5, 1982. Reply comments in response to comments filed in the initial comment period could be submitted by May 5, 1982.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-02, 5600 Fishers Lane, Rockville, MD 20857, after deletion of a small amount of trade secret information.

The agency's proposed regulation for insect repellent drug products for oral use was published in the Federal Register of June 10, 1983 (48 FR 26986). Interested persons were invited to file by August 9, 1983, written objections and requests for an oral hearing before the Commission of Food and Drugs regarding the proposal. Interested

persons were invited to file comments on the agency's economic impact determination by August 9, 1983. New data could have been submitted until June 11, 1984. Final agency action occurs with the publication of this final rule for OTC insect repellent drug products for oral use.

The OTC procedural regulations (21 CFR 330.10) have been revised to conform to the decision in *Cutler v. Kennedy*, 475 F. Supp. 838 (D.D.C. 1979). (See the Federal Register of September 29, 1981; 46 FR 47730.) The court in *Cutler* held that the OTC drug review regulations were unlawful to the extent that they authorized the marketing of Category III drugs after a final monograph had been established. Accordingly, this provision has been deleted from the regulations, which now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph.

Although it was not required to do so under *Cutler*, FDA is no longer using the terms "Category I" (generally recognized as safe and effective and not misbranded), "Category II" (not generally recognized as safe and effective or misbranded), and "Category III" (available data are insufficient to classify as safe and effective, and further testing is required) at the final monograph stage, but is using instead the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III).

As discussed in the proposed regulation for OTC insect repellent drug products for oral use (48 FR 26986), the agency advises that the conditions under which the drug products that are subject to this rule are not generally recognized as safe and effective and are misbranded (nonmonograph conditions) will be effective on December 17, 1985. On or after that date, no OTC drug products that are subject to the final rule may be initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved new drug application (NDA). Manufacturers are encouraged to comply voluntarily with the final rule at the earliest possible date.

No comments, new data, or requests for oral hearing were submitted in response to the proposed rule on OTC insect repellent drug products for oral use. No additional information has come to the agency's attention since publication of the proposed rule.

The Agency's Final Conclusions on OTC Insect Repellent Drug Products for Oral Use

FDA has considered the data and information available at this time and concludes that any OTC drug product that is labeled, represented, or promoted for oral use as an insect repellent is regarded as a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(p)) for which an approved new drug application under section 505 of the act (21 U.S.C. 355) and 21 CFR Part 314 is required for marketing. In the absence of an approved new drug application, such product is also misbranded under section 502 of the act (21 U.S.C. 352).

No comments were received in response to the agency's request for specific comment on the economic impact of this rulemaking (47 FR 424). The agency has examined the economic consequences of this final rule in conjunction with other rules resulting from the OTC drug review. In a notice published in the Federal Register of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that not one of these rules, including this final rule for OTC insect repellent drug products for oral use, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96-354. That assessment included a discretionary Regulatory Flexibility Analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for OTC insect repellent drug products for oral use is not expected to pose such an impact on small businesses. Therefore, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 21 CFR Part 310

New drugs.

PART 310—[AMENDED]

Therefore, under the Federal Food, Drug, and Cosmetic Act and the

Administrative Procedure Act, Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations is amended in Part 310 as follows:

1. The authority citation for 21 CFR Part 310 is revised to read as follows:

Authority: Secs. 502, 503, 505, 701, 52 Stat. 1051, 1052, 1053, 1055, as amended (21 U.S.C. 352, 353, 355, 371) (5 U.S.C. 553); 21 CFR 5.11.

2. In Subpart E by adding new § 310.529, to read as follows:

§ 310.529 Drug products containing active ingredients offered over-the-counter (OTC) for oral use as insect repellents.

(a) Thiamine hydrochloride (vitamin B-1) has been marketed as an ingredient in over-the-counter (OTC) drug products for oral use as an insect repellent (an orally administered drug product intended to keep insects away). There is a lack of adequate data to establish the effectiveness of this, or any other ingredient for OTC oral use as an insect

repellent. Labeling claims for OTC orally administered insect repellent drug products are either false, misleading, or unsupported by scientific data. The following claims are examples of some that have been made for orally administered OTC insect repellent drug products: "Oral mosquito repellent," "mosquitos avoid you," "bugs stay away," "keep mosquitos away for 12 to 24 hours," and "the newest way to fight mosquitos." Therefore, any drug product containing ingredients offered for oral use as an insect repellent cannot be generally recognized as safe and effective.

(b) Any OTC drug product that is labeled, represented, or promoted for oral use as an insect repellent is regarded as a new drug within the meaning of section 201(p) of the Federal Food, Drug and Cosmetic Act for which an approved new drug application under section 505 of the act and Part 314 of this chapter is required for marketing. In the

absence of an approved new drug application, such product is also misbranded under section 502 of the act.

(c) A completed and signed "Notice of Claimed Investigational Exemption for a New Drug" (Form FD-1571) (OMB Approval No. 0910-0014), as set forth in § 312.1 of this chapter, is required to cover clinical investigations designed to obtain evidence that any drug product labeled, represented, or promoted OTC as an insect repellent for oral use is safe and effective for the purpose intended.

(d) Any such drug product in interstate commerce after December 17, 1985, that is not in compliance with this section is subject to regulatory action.

Dated: May 6, 1985.

Frank E. Young,
Commissioner of Food and Drugs.

Margaret M. Heckler,
Secretary of Health and Human Services.
[FR Doc. 85-14438 Filed 6-14-85; 8:45 am]
BILLING CODE 4160-01-M

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federal register

**Monday
June 17, 1985**

Part V

Department of Education

**Auxiliary Activities; Innovative Programs
for Severely Handicapped Children;
Notice of Final Annual Funding Priority**

RECEIVED
JAN 15 1960

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

WASH. D.C. 20250

TO: DIRECTOR, BUREAU OF LAND MANAGEMENT
FROM: SAC, DENVER
SUBJECT: [Illegible]

RE: [Illegible]

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Department of
Education

Office of the Superintendent
of Public Instruction
Denver, Colorado

Project

DEPARTMENT OF EDUCATION

Auxiliary Activities; Innovative Programs for Severely Handicapped Children

AGENCY: Department of Education.

ACTION: Notice of final annual funding priority.

SUMMARY: The Secretary issues an annual funding priority for the Auxiliary Activities—Innovative Programs for Severely Handicapped Children program. The Secretary adds this priority, addressing the need for exemplary models of educational projects in the least restrictive environment, to the seven final annual funding priorities for this program which were published on April 10, 1985 in the *Federal Register*.

EFFECTIVE DATE: This final funding priority will take effect either 45 days after publication in the *Federal Register* or later if Congress takes certain adjournments. If you want to know the effective date of this priority, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: R. Paul Thompson, Special Needs Section, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 4615), Washington, D.C. 20202. Telephone: (202) 732-1117.

SUPPLEMENTARY INFORMATION: The Auxiliary Activities program, authorized by Section 624 of the Education of Handicapped Act, supports research, development or demonstration, training, and dissemination activities which meet the unique educational needs of handicapped children and youth, and are consistent with the purposes of Part C of the Act (20 U.S.C. 1424).

The Education of the Handicapped Act Amendments of 1983, Pub. L. 98-199, included amendments to the provisions of Section 624. In accordance with this authority, the Secretary will fund projects under the following priority for fiscal year 1985.

The selection of this final priority is based upon: (1) A comprehensive review of the program's history, including the number of responses to various requests for proposals and responses to the 1982, 1983, and 1984 grant competitions; and (2) an analysis of comments from professionals serving severely handicapped and deaf-blind children as to perceived needs in the field.

A notice of proposed annual funding priority was published in the *Federal Register* on April 5, 1985 at 50 FR 13731. The public was given thirty days in which to comment. No comments were received.

The Secretary announced seven other final annual funding priorities under this program which were published on April 10, 1985 (50 FR 14204). Projects under this priority will be funded for up to 36 months, subject to annual review of progress, the availability of Federal funds, and other factors (see 34 CFR 75.253).

Priority*Education of Severely Handicapped (Including Deaf-Blind) Children and Youth in the Least Restrictive Environment*

This priority supports projects which, on a district-wide basis (local educational agency) or cross district basis, design, implement, and evaluate innovative approaches for the education of severely handicapped (including deaf-blind) children and youth in the least restrictive and least segregated

environment. Projects under this priority must:

1. Develop new models for delivery of integrated educational services, including changes in the location of instructional areas for provision of these services, for severely handicapped children who currently are being educated in segregated environments;
2. Demonstrate through the provision of project services, the clear movement of participating children and youth to and integration into less segregated environments, with the objective of facilitating the placement of these children in appropriate, regular school settings;
3. Provide in service training of personnel in local educational agencies including principals, assistant principals and teaching staff which are planning to provide educational services to handicapped children of the project in the least restrictive and least segregated environments; and
4. Provide components which promote acceptance of these children and youth by administrators, teachers, parents, and other children and youth in the least restrictive and least segregated environment.

It is estimated that approximately \$880,000 is available for issuing up to 9 grants with each grant averaging approximately \$98,000 annually.

(20 U.S.C. 1424)

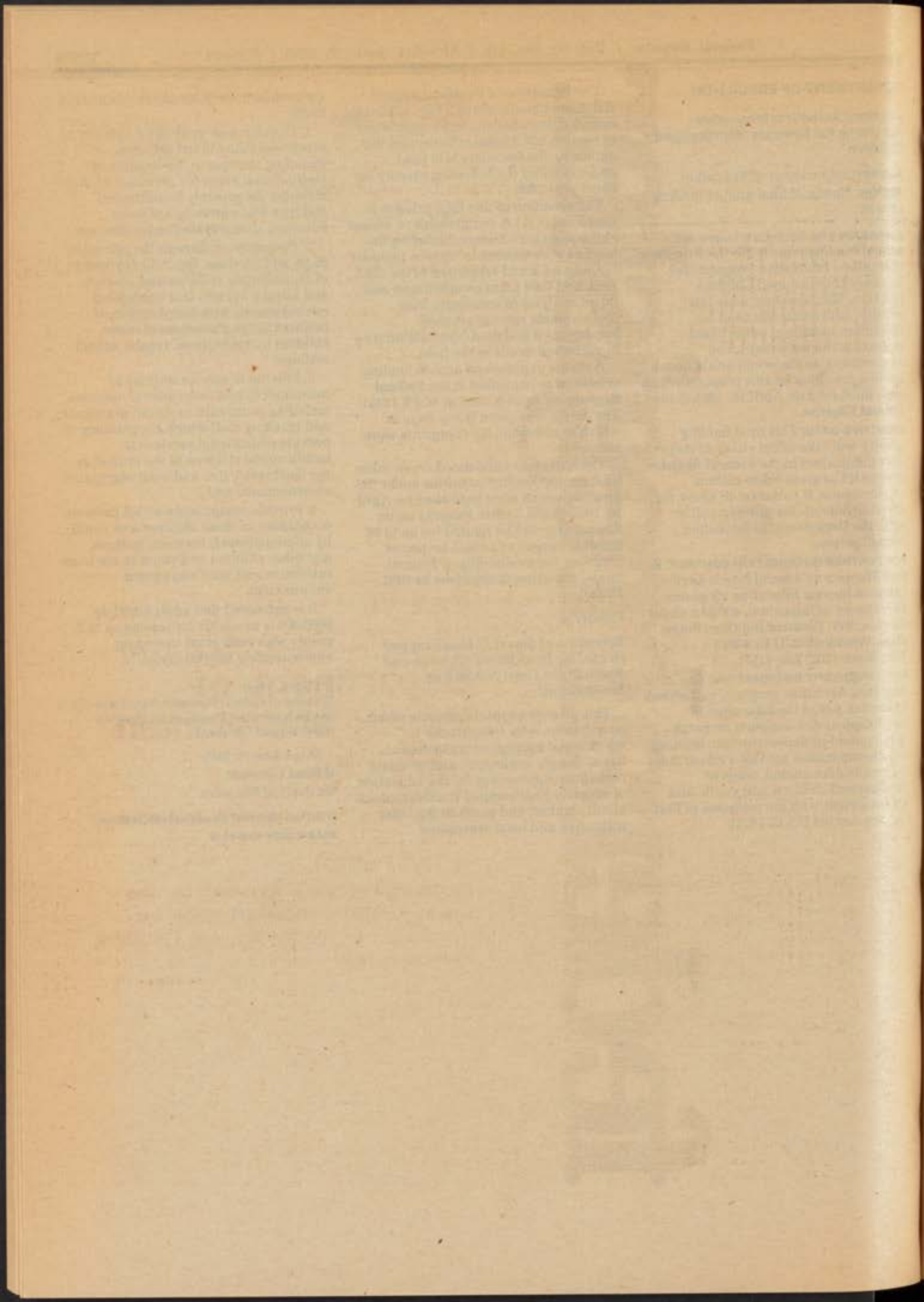
(Catalog of Federal Domestic Assistance No. 84.086, Innovative Programs for Severely Handicapped Children)

Dated: June 12, 1985.

William J. Bennett,
Secretary of Education.

[FR Doc. 85-14447 Filed 6-14-85; 8:45 am]

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Federal Register

**Monday
June 17, 1985**

Part VI

Department of Health and Human Services

Health Care Financing Administration

42 CFR Part 405

**Medicare Program; Payment for the
Costs of Malpractice Insurance for
Hospitals and Skilled Nursing Facilities;
Proposed Rule**

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

[BERC-340-P]

Medicare Program; Payment for the Costs of Malpractice Insurance for Hospitals and Skilled Nursing Facilities

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: We propose to amend the method we use to determine reasonable cost reimbursement for the costs of malpractice insurance incurred by hospitals and skilled nursing facilities (SNFs). Under this proposed rule, we would retain the claims-paid formula whereby a hospital or SNF would be reimbursed according to the ratio of its malpractice claims paid to Medicare patients compared to its malpractice claims paid to all patients. A hospital or SNF with no malpractice claims-paid experience would be reimbursed an amount equal to a national ratio of malpractice claims paid to Medicare patients compared to malpractice claims paid to all patients. In addition, we would update the national ratio used to determine the amount payable to hospitals with no less experience.

The current malpractice insurance rule was promulgated on June 1, 1979 (44 FR 31641) and made applicable to cost reporting periods beginning on or after July 1, 1979. Since that time a number of hospitals have brought court actions challenging the policy. As a result, we have reviewed actual hospital cost report data to ascertain whether the underlying bases for the existing methodology continue to be supported. We have concluded that these data independently establish and confirm that our prior determination to directly apportion malpractice costs was correct. Accordingly, we propose to have this regulation take effect for cost reporting periods beginning on or after July 1, 1979, subject to our rules of administrative finality and reopening.

DATES: To be considered, comments must be mailed or delivered to the appropriate address provided below and must be received by August 1, 1985.

ADDRESS: Mail your comments to the following address:

Health Care Financing Administration,
Department of Health and Human
Services, Attention: BERC-340-P, P.O.
Box 26676, Baltimore, Maryland 21207

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey
Building, 200 Independence Ave., SW.,
Washington, D.C.; or

Room 132, East High Rise Building, 6325
Security Boulevard, Baltimore,
Maryland.

In commenting, please refer to file code BERC-340-P. Comments will be available for public inspection as they are received, beginning approximately three weeks after publication of this document, in Room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202-245-7890).

FOR FURTHER INFORMATION CONTACT:
Paul Trimble, (301) 594-8640.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 1814(b) of the Social Security Act (the Act), Medicare pays providers of health care services (excluding inpatient hospital services subject to the prospective payment system (section 1886(d) of the Act)), the lesser of the reasonable cost of health care services, as determined under section 1861(v) of the Act, or the customary charges for the services. Inpatient hospital services subject to the rate of increase limits (section 1886(b) of the Act) are not subject to the customary charges limitation.

Section 1861(v)(1)(A) of the Act provides generally that the reasonable cost of services "shall be the cost actually incurred" subject to certain limitations including the exclusion of incurred costs "found to be unnecessary in the efficient delivery of needed health services." Furthermore, section 1861(v)(1)(A) of the Act provides that the reasonable cost of services "shall be determined in accordance with regulations establishing the method or methods to be used, and the items to be included, in determining such costs for various types or classes of institutions, agencies, and services. . . ."

In prescribing regulations for the determination of the reasonable cost of services, section 1861(v)(1)(A) of the Act provides that "the Secretary shall consider, among other things, the principles generally applied by national organizations or established prepayment organizations . . . in computing the amount of payment" to providers of services by persons other than the recipient of services. The statute permits us to promulgate regulations that "provide for determination of the costs

of services on a per diem, per unit, per capita, or other basis, . . . provide for using different methods in different circumstances, . . . [and] provide for the use of estimates of costs of particular items or services". Furthermore, section 1861(v)(1)(A)(i) of the Act requires that regulations for the determination of the reasonable cost of services "take into account both direct and indirect costs of providers of services . . . in order that, under the methods of determining costs, the necessary costs of efficiently delivering covered services to . . . [Medicare patients] will not be borne by . . . [non-Medicare patients], and the costs with respect to . . . [non-Medicare patients] will not be borne by" the Medicare program. Where the aggregate reimbursement produced by the methods of determining costs proves to be inadequate or excessive, the statute permits us to make "suitable retroactive corrective adjustments."

For cost reporting periods beginning prior to July 1, 1979, malpractice insurance costs, that is, the amount of money a provider pays to purchase malpractice insurance from an insurance company or contributes to a self-insurance fund, were apportioned by Medicare in accordance with a utilization formula applicable to all costs incurred by providers. The utilization formula, adopted by the Secretary at the outset of the Medicare program (31 FR 14808; November 23, 1966), treated provider overhead expenses as indirect costs, many of which were combined in the administrative and general pool of provider costs. (For purposes of the discussion below, we use the phrase general and administrative (G & A) costs because that is the terminology commonly used by courts in their decisions.) Malpractice insurance costs were included in the G & A cost center, which in turn was allocated to revenue-producing cost centers. The revenue-producing cost centers were then apportioned between Medicare and non-Medicare patients on a utilization basis in order to determine Medicare's share of the costs incurred. Thus, for example, if Medicare patients constituted 30 percent of the routine patient-days at a hospital for a given year, Medicare would reimburse the hospital for 30 percent of the portion of G & A costs that were allotted to the inpatient routine area including malpractice insurance costs.

The use of utilization as a method of apportionment was predicated on the supposition that all provider costs applicable to a patient care department generally apply in the same proportion

to all patient care services. Thus, we assumed that "where a particular cost might be allocated disproportionately to or from the [Medicare] program, there will be other costs disproportionately allocated in the other direction which will compensate for the first cost. In this manner, the program is presumed to bear its fair share of the total allowable cost." HEW (Health, Education and Welfare) Intermediary Letter No. 234 (June 2, 1967).

A. Current Reimbursement Policy for Malpractice Insurance Costs

On March 15, 1979, we proposed (44 FR 15744) to discontinue the utilization method of apportioning malpractice insurance costs because we believed that Medicare was paying a disproportionate amount of providers' malpractice insurance costs. This proposal was based partially on a study by a Departmental consultant, Westat, Inc. (Westat Study), that found that malpractice losses paid to, or on behalf of Medicare patients were less frequent and significantly lower in amount than losses paid for other patient populations. In response to the extraordinary increase in malpractice insurance costs and the disproportionate amount of these costs paid by the program, we proposed to remove malpractice insurance costs from the G & A pool and to apportion those costs directly based on a provider's five-year malpractice claims-paid history. (This policy applies only to hospitals and SNFs. However, in the discussion below, for ease of reference, we use the term "providers" when we need to refer to both types of facilities.) We proposed that if a provider paid a malpractice claim during the current cost reporting period or during the preceding four cost reporting periods, Medicare would reimburse an amount equal to the ratio of the provider's malpractice insurance losses paid to Medicare patients compared to its total malpractice losses paid to all patients during that five year period (44 FR 15744; March 15, 1979). We also proposed that providers with no loss experience during the five year period would be reimbursed in accordance with an actuarial estimate (44 FR 15745).

After consideration of public comments responding to the proposed rule, we published a final rule on June 1, 1979 (44 FR 31641). The final rule amended 42 CFR 405.452 and was applicable to cost reporting periods beginning on or after July 1, 1979. The regulations in the final rule, recodified as 42 CFR 405.452(a)(1)(ii) ("the malpractice rule"), retained the claims-paid formula for providers with

malpractice losses but changed the proposal for providers with no malpractice losses to provide for use of a national ratio.

Under § 405.452(a)(1)(ii), providers that have paid malpractice claims must separately accumulate and directly apportion to Medicare their malpractice insurance costs. This apportionment is determined by comparing the provider's Medicare malpractice losses (that is, claims paid to Medicare patients) with its malpractice losses for all patients for the current cost reporting period (that is, the period for which a cost report is being submitted) and the preceding four-year period. Thus, for example, if over the five-year period a provider has had malpractice losses of \$100,000 for Medicare patients and malpractice losses of \$200,000 for other patients, Medicare will reimburse the provider for one-third of its malpractice insurance premium for the current cost reporting period. Similarly, if all of a provider's malpractice losses for the five-year period were paid to Medicare patients, Medicare will reimburse the provider for the entire amount of its malpractice insurance premium for the current period.

Section 405.452(a)(1)(ii) also provides that if a provider has had no malpractice loss experience during the five-year period, Medicare's share of the provider's malpractice insurance costs for the current reporting period is determined on the basis of the national ratio of malpractice losses paid to Medicare patients compared to malpractice losses paid to all patients during the five-year reporting period. The final rule established this national ratio at 5.1 percent (44 FR 31642).

B. The Necessity of Reconsideration and Revision of the Current Policy

Since its promulgation in 1979, the malpractice rule has been controversial. It has been the subject of numerous lawsuits and has been criticized by a number of courts. As a result, since 1979 we have analyzed malpractice loss data that was submitted by Medicare hospitals, and we believe that these data support the basic premise of the malpractice rule: That malpractice losses paid to Medicare patients account for a disproportionately low share of total malpractice losses, and therefore a reimbursement formula that more accurately apportions these costs is necessary. However, these data also indicate that the national ratio of losses paid to Medicare hospital patients compared to total losses paid is higher than the level estimated in 1979.

For these reasons, we propose to repromulgate the malpractice rule,

subject to our rules of administrative finality and reopening (§§ 405.1801, 405.1885, and 405.1877), effective for cost reporting periods beginning on or after July 1, 1979. We propose to retain the claims-paid formula for the reasons discussed below, but will entertain all suggestions for alternative methods to address this issue. Additionally, we propose to establish the Medicare national ratio at 11.6 percent for hospitals and to provide a procedural mechanism for periodically updating that figure based on the most recent data available.

On the other hand, we have no data to support an increase in the Medicare national ratio for SNFs. Therefore, we would retain the 5.1 percent figure for these providers. With respect to malpractice losses attributed to services provided under the Medicaid or the Maternal and Child Health programs, we have only preliminary data and are unable to conclude whether a change in the national ratio of 7.5 percent applicable to these programs is in order. Therefore, we are not proposing a change in this national ratio at this time, but we are continuing to study the issue and invite specific comments and data concerning it.

C. The Impact of the New HCRIS Data on the Apportionment of Malpractice Insurance Costs

Medicare's Hospital Cost Report Information System (HCRIS) is an automated data collection, processing and report-generation system that contains hospital financial and statistical data. It is our national data base for all hospital cost report data. HCRIS currently contains cost report data for cost reporting periods ending on or after January 1, 1982 through periods ending on September 29, 1983. It also contains reimbursement data for hospitals paid under the Maternal and Child Health Services and Medicaid programs (under Titles V and XIX, respectively, of the Act) if payment was made on a reasonable cost basis and the same fiscal intermediary was responsible for processing and settling the hospital's Medicare cost reports.

Each hospital cost report (HCFA 2552) in the HCRIS data base includes the malpractice worksheet (Worksheet D-8), which reflects the hospital's malpractice losses (if any) for the current period and the four prior cost reporting periods, and the costs of the hospital's current year malpractice insurance premiums or self-insurance fund contributions. For example, a cost report for the period ending June 30, 1982 would include all of the hospital's malpractice losses for the

period July 1, 1981 through June 30, 1982 and for the four previous cost reporting periods ending on June 30th of each year.

HCRIS includes malpractice loss data taken primarily from settled hospital cost reports. These cost reports were submitted by more than 5200 participating hospitals for cost reporting periods ending on or after September 30, 1982 through periods ending on September 29, 1983. The malpractice loss data included in these reports is from cost reporting periods ending on or after January 1, 1978 through periods ending on September 29, 1983. Currently, about 77.6 percent of the cost reports for cost reporting periods ending on September 30, 1982 through September 29, 1983 have been included in HCRIS.

As noted above, HCRIS does include data on malpractice losses related to patients paid under Medicaid and the Maternal and Child Health Act. However, hospitals have not always reported these costs, and we do not routinely review them for completeness and accuracy. Thus, while we have some data on those malpractice insurance costs, they are partial, and therefore unrepresentative, and difficult to interpret. We do not know whether this national ratio should be changed. Therefore, we would continue this national ratio at 7.5 percent. We are specifically seeking public comments and data on this matter, however.

Under section 2163 of the Provider Reimbursement Manual (HCFA Pub. 15-1), a malpractice loss, whether resulting from a court decree or an out-of-court settlement, is the actual amount paid to a claimant by the provider, the insurance company, or the provider's self-insurance fund. In some situations, actual payment in settlement of claims may be made over an extended period of time. Each partial payment of a claim represents a malpractice loss in the cost reporting period in which made. Court costs awarded to claimants as part of the payment are included in this definition of losses.

A Medicare malpractice loss is defined under § 2163 as a claim paid to a Medicare patient because of liability arising from an injury to any person caused by a "medical incident." A medical incident means any act or omission in the furnishing of professional health care services. These acts or omissions may occur during the furnishing of food, beverages, medications, or appliances in connection with such services; the post mortem handling of human bodies; or the service by any person as a member of a formal accreditation, standards review or similar professional board or

committee of the insured (provider) or as a person charged with executing the directives of such a board or committee. All acts or omissions in the furnishing of medical services to a patient are considered one medical incident.

If a single amount is paid by the provider's insurer to a claimant in settlement of a malpractice incident caused by several parties (for example, provider and physician), the provider must provide HCFA with information sufficient to determine the portion of the claim paid on behalf of the provider. The portion of such multiple party claims paid on behalf of physicians or parties other than the provider is explicitly excluded from the provider's malpractice losses.

The HCRIS data include malpractice losses paid by hospitals or their insurers (including self-insurance funds) from 1978 through 1983. We believe that the HCRIS Medicare data are of very high quality. The data on malpractice losses are from intermediary-reviewed cost reports, and explicitly exclude the costs of both general liability premiums and losses, and physician liability premiums and losses. Furthermore, the data are from a substantial majority of participating hospitals.

We believe that the HCRIS data, like the Westat Study, support our decision to remove malpractice insurance costs from the G & A pool. The malpractice rule published in 1979 was based partially on a closed-claim census study conducted by Westat, Inc. (Westat Study). The Westat Study related provider malpractice losses to specific claims paid to Medicare patients and to non-Medicare patients. The Westat Study confirmed our assumptions that the unique characteristics of the Medicare patient population led to the submission and payment of fewer and smaller malpractice claims by Medicare patients. We continue to believe that the Westat Study confirmed these assumptions and showed that the program was paying a disproportionate amount of malpractice insurance costs.

The Westat Study examined all malpractice claims (approximately 4,000) paid during a four-month period in 1976 by nine major insurance carriers. The claims examined constituted 84 percent of all malpractice claims closed by private carriers that year (Westat Study, p. 2-1). Information was available on the Medicare (or non-Medicare) status of the claimants for two-thirds of the claims studied. The percentage of Medicare patients represented by the remaining claims was estimated on the basis of the age distribution of the claimants (Westat Study, pp. 5-3 to 5-8). Westat's

conclusion was that "the percentage of all claims that were Medicare claims [was no more than] 13 percent" (Westat Study, p. 5-8). Since most of the claims paid in 1976 related to incidents that occurred in 1973, Westat then compared the incidence of discharges of Medicare patients to the Medicare/non-Medicare status of all patients discharged in 1973 and found that 21 percent of hospital discharges nationwide were Medicare patients (Westat Study, pp. 5-5 and 5-8).

Westat next examined the amount of the awards made to Medicare patients, and found that average awards were much lower than for non-Medicare patients. According to the data collected by Westat, awards made to Medicare patients totaled \$1.8 million compared to awards made to all patients of \$35.7 million, excluding awards made to patients for whom the source of financial liability for the hospital stay was not identified. Based on Westat's data, we estimated that 5.1 percent of the total dollars paid in malpractice claims went to Medicare claimants even though, according to Westat, 21 percent of hospital patients were Medicare beneficiaries. Thus, the study confirmed our assumptions that Medicare patients received fewer and smaller claims than non-Medicare patients, and supported the view that the program was paying a disproportionate share of malpractice insurance costs—costs that were increasing at a rate far in excess of the general rate of increase of health care costs.

Although the HCRIS data base is very different from the data examined by Westat, we believe that HCRIS independently established and, therefore, confirms Westat's finding that Medicare reimbursement under the apportionment method based on Medicare utilization was excessive. Based on the most recent cost reports in HCRIS, we estimate that 11.6 percent of all malpractice losses incurred by participating hospitals are malpractice losses paid to Medicare beneficiaries, although HCRIS shows that Medicare utilization is 40.5 percent of patient days. Specifically, 1646 hospitals reported \$66.7 million in Medicare malpractice losses out of \$582.5 million total malpractice losses. Thus, the HCRIS data, like the Westat Study, support the decision to remove malpractice insurance costs from the G & A pool on the ground that Medicare was paying a disproportionate amount of those costs under the former utilization method.

We estimated the proposed national ratio for hospitals based on a sample of 5281 Medicare cost reports from HCRIS.

These were primarily 1983 cost reports, as discussed above. In order to ensure that the sample was representative of the universe, we compared it to a national base of 6657 Medicare participating hospitals. (This national base included all the hospitals in the Medicare Provider of Services file for 1983, plus any hospitals in the HCRIS file that were not in the Provider of Service file.)

The comparison was done as follows:

- The hospitals in the sample (HCRIS) were allocated to 36 groups relating four bed-size categories (0-99, 100-299, 300-399, and 400+) to the nine census divisions of the U.S.
- The hospitals in the universe were allocated to a similar set of 36 groups.
- For each group, we compared the number of hospitals and beds in the sample and the universe.

The sample did not include a comparable proportion of the universe for all the groups, so we decided to weight the malpractice loss ratio (that is, the ratio of Medicare paid malpractice claims to total malpractice claims) for each group to ensure that the national ratio was not distorted by sampling bias. Since a hospital's exposure to malpractice risk is related to the volume of services it provides, we decided it would be better to weight the sample by the number of beds in each group rather than by the number of hospitals. We did this as follows:

- For hospitals in the sample, we determined the Medicare paid malpractice claims and the total paid malpractice claims.
- For each group of sample hospitals, we summed Medicare paid claims and total paid claims separately.
- We then divided each of these sums by the number of beds in the sample, deriving the average:
 - Medicare paid claim per bed; and
 - Total paid claim per bed.
- These averages for each group were then multiplied by the number of beds for each comparable group of the universe, yielding for each group the estimated Medicare and total paid claims for the universe.
- The estimated Medicare paid claims and total paid claims for all the groups of the universe were then summed, producing our weighted estimates of national Medicare claims paid and national total claims paid.
- The proposed national ratio is derived by dividing the estimated national Medicare paid claims amount by the estimated national total paid claims amount. This ratio is .1162, or 11.6 percent.

This analysis of the HCRIS data on hospital malpractice losses is the principal basis for our decision to propose once again to discontinue apportionment of malpractice insurance costs on the basis of the utilization method. Additionally, the HCRIS data underlie our proposal to update and increase the national ratio applicable under the malpractice rule to hospitals with no loss experience. Specifically, we propose to increase the national ratio for hospitals from 5.1 percent to 11.6 percent.

In addition, we propose to include in § 405.452 a new provision that would establish a procedural mechanism for updating the national ratio on the basis of actual cost report data. The HCRIS data enable us to calculate more precisely both the total amount of hospital malpractice losses paid to program beneficiaries and the total amount of losses paid to all patients. Thus, with the HCRIS data, we can ascertain the national ratio for hospitals from intermediary-reviewed hospital cost reports instead of having to extrapolate from the results of a closed-claim study.

D. Removing Malpractice Costs From the G & A Pool Is Supported by the Evidence and Does Not Result in a Distortion of Apportionment of the Costs That Remain in the G & A Cost Center

We believe that, given a full account of the apportionment process and the unique situation presented by malpractice costs, removal of malpractice costs from the G & A cost center is necessary to prevent a distortion of apportionment of the costs in that cost center.

In 1966, we concluded that the fairest way to determine our share of the total costs of a provider was, first, to determine the costs for each department that furnished services to patients (that is, each revenue-producing cost center, for example, inpatient routine care (room and board), operating room, radiology, outpatient care); and then to pay our share of each revenue-producing cost center's costs based on utilization by Medicare beneficiaries compared to utilization by all patients of that cost center. Accordingly, we require that the costs of each department be accumulated in a separate cost center on the cost report that each Medicare provider prepares at the end of the provider's fiscal year. We also require that the costs in each cost center be apportioned between Medicare beneficiaries and non-Medicare patients.

The total cost in each revenue producing cost center includes direct costs and indirect or overhead costs. The direct costs (for example, salaries) are directly related to the appropriate cost center and are initially accumulated in that cost center. The indirect costs (for example, G & A) are first accumulated in separate cost centers because the overhead costs generally serve the entire facility and cannot be directly assigned to specific revenue producing departments of a provider. After the indirect costs are accumulated, they are allocated to all other cost centers. For example, building depreciation and the operation and maintenance of the "plant" are allocated to other departments on the basis of square feet rather than by any exact analysis of the actual cost per department. Similarly, G & A costs are allocated in accordance with the accumulated direct costs of each cost center. Once the costs of the G & A and other overhead cost centers are allocated, they, along with all other costs in each revenue producing cost center, are apportioned between Medicare patients and non-Medicare patients.

Overhead costs are treated in this manner because in many cases it would be impossible to allocate more accurately a particular overhead cost without creating a tremendous burden. For example, unless a provider were to install a meter in each department, we could not make a more equitable or reasonable determination of how much heat or electricity is used by each department. Therefore, we believe it is reasonable to allocate the cost of heat or electricity by comparing square feet per department.

We believe that, for the vast majority of costs in a cost-based reimbursement system, reimbursement based on Medicare utilization is the most equitable and reasonable method both for providers and the Medicare program. However, we have always believed that exceptions to this methodology may be necessary. Exceptions have been made in addition to the one for malpractice insurance costs. For example, when the Medicare program first began, we paid providers 100 percent of their costs associated with Medicare billing. Of course, we stopped this practice after billing became routine for the providers.

Some providers and courts have criticized our policy of removing malpractice insurance costs from the G & A cost center and directly apportioning these costs. We believe for four reasons that malpractice insurance costs should be removed from the G & A

cost center. First, there is no question that malpractice costs increased significantly during the period between 1960 and 1976. Between 1960 and 1970, malpractice insurance costs for hospitals rose 263 percent (See, Medical Malpractice: Report of the Secretary's Commission on Medical Malpractice 13 (1973)). In addition, the Westat Study documented a 94 percent increase in the average award between 1970 and 1976 (Westat Study, p. 3-5).

Second, the HCRIS data and Westat Study support our assumptions that Medicare patients submit fewer and smaller claims than non-Medicare patients. This means that the program was bearing a disproportionate amount of malpractice costs incurred by providers.

Third, the HCRIS data shows that malpractice insurance costs are about \$708 million annually, which constitutes 6.14 percent of the total of costs in the G & A pool. Thus, the extraordinary increase in malpractice insurance costs, the disproportionate amount of costs borne by the program, and the relative importance of malpractice costs in the G & A cost center made it necessary to remove these costs from the G & A pool in order to re-establish the presumed balance between Medicare and non-Medicare costs in that cost center.

Fourth, removal of malpractice insurance costs from the G & A cost center is supported further by the fact that we know of no other costs in the G & A pool that had changed significantly during the period in which malpractice costs increased so dramatically. Thus, there is no reason to believe that the presumed balance between Medicare and non-Medicare costs was threatened or undermined by any other cost in the G & A pool. Moreover, we have no reason to suspect that removal of malpractice costs from the G & A pool has distorted the apportionment of G & A costs. Instead, we conclude that the malpractice rule reinstated—instead of upsetting—the presumed balance between Medicare and non-Medicare costs in the G & A cost center.

E. Malpractice Loss Experience Is a Valid Basis for Determining Medicare's Share of Malpractice Insurance Costs

Malpractice loss experience is a proper basis for apportioning malpractice costs and is clearly authorized by section 1861(v)(1)(A) of the Act. Moreover, we believe that insurance industry data and related considerations of Medicare utilization and administrative feasibility support our use of loss experience as the basis for this malpractice insurance apportionment policy.

Some providers and courts have criticized the use of malpractice loss experience as a basis for apportioning malpractice insurance costs because premiums may be established on the basis of other factors. We disagree for three reasons with the view that our apportionment policy is invalid because factors besides loss experience may underlie the establishment of premiums. First, in promulgating regulations for the determination of reasonable costs, we are only required to consider the relevant practices of the insurance industry. Section 1861(v)(1)(A) of the Act provides that "the Secretary shall consider, among other things, the principles generally applied by national organizations or established prepayment organizations . . . in computing the amount of payment" to be made to providers. However, once we have considered industry practice on a reimbursement issue, we have broad discretion as to whether to follow that practice. See, *Abington Memorial Hospital v. Heckler*, 576 F. Supp. 1081, 1087 n. 5 (E.D. Pa. 1983), *aff'd*, 750 F.2d 242 (3rd Cir. 1984). We believe that due to the lesser risk associated with Medicare patients, reimbursement of malpractice insurance costs on an allocation of risk basis was required regardless of the factors relied on by insurers to set premiums.

Second, we do not agree that the malpractice rule fails to reimburse a provider for its reasonable costs incurred for the benefit of Medicare beneficiaries insofar as the rule relies on malpractice loss experience and not directly upon other expenses underlying premiums (for example, claims handling and litigation). As explained by the United States Court of Appeals for the District of Columbia Circuit in *Walter O. Boswell Memorial Hospital v. Heckler*, 749 F.2d 788, 801 (D.C. Cir. 1984), because section 1861(v)(1)(A) of the Act requires only that industry practice on reimbursement matters be considered, it follows that the Act contemplates instances in which we would not agree with an insurer's definition of reasonable costs. We agree specifically with the following holding of the District of Columbia Circuit regarding the malpractice rule's reliance on malpractice loss experience for the apportionment of premium costs:

We do not, therefore, find arbitrary and capricious the Secretary's interpretation of the statute so as to deny hospitals some of their premium costs. After all, paying the percentage of premiums reflecting losses from Medicare patients would in the long run fairly compensate the [insurance] companies for their losses, and thus would fairly reimburse

the hospitals for necessary expenditures. 749 F.2d at 801.

Third, we believe that insurance industry data on premium-setting, together with related considerations of Medicare utilization and administrative feasibility, support our use of malpractice loss experience as the basis for apportioning malpractice insurance costs. In particular, loss experience is clearly the predominant factor in the total calculation of a premium. Furthermore, in addition to filing and receiving payment on fewer and smaller malpractice claims, Medicare patients make relatively less use of the other services underlying total premium costs. These facts, along with the infeasibility and great burden of allocating different parts of the total premium cost on different bases, make it reasonable to base our malpractice insurance cost apportionment policy on malpractice loss experience.

We believe that it is an axiomatic principle of insurance law and practice that premiums are related significantly to losses. A leading authority on insurance law characterized this principle as follows:

The policyholder pays as a premium an amount equal to a proportionate part of the total predicted costs of meeting specified types of losses in a great number of ventures like this, plus a sum for administrative and other costs. The insurer, collecting premiums from many policyholders, increases the number of ventures in the risk pool to the point that the principle of risk distribution operates satisfactorily.—R. Keeton, *Insurance Law* 7 (1971).

The rulemaking record for the current malpractice rule is full of comments that concede that malpractice loss experience is the major component of the total cost of malpractice insurance. Commenters that quantified the various elements of the cost of malpractice insurance conceded that loss experience is the largest single item in the total cost. We received comments estimating that loss payment constituted between 30 percent and 60 percent of the cost of malpractice insurance.

Loss payment as a percentage of the cost of malpractice insurance has continued to increase since those earlier estimates, as supported by current insurance industry data. For example, A.M. Best, the main publisher of insurance reference data, reports that, in the aggregate for all types of malpractice coverage, malpractice loss experience represents a substantial proportion of the cost of malpractice insurance. According to A.M. Best, in *Best's Aggregates and Averages, Property-Casualty* (1984 edition), since 1979, loss

experience has annually accounted for 70 percent or more of the total malpractice insurance cost and ranged up to, and sometimes even exceeded, 100 percent of the cost of malpractice insurance. (Exceeding 100 percent of the cost of malpractice insurance is possible because investment of the premium or self-insurance fund contribution provides an insurance company, or malpractice self-insurance fund, as appropriate, with additional funds that may be used to pay for malpractice losses.) Premium data from two of the largest national writers of institutional malpractice insurance coverage offered in Maryland show that loss payment accounts for 77 percent and 60 percent, respectively, of their total premiums. Thus, we continue to believe that loss experience accounts for a major component of malpractice insurance premiums and self-insurance fund contributions. Therefore, loss experience is both a rational and logical basis for allocating the entire premium.

We also believe that Medicare beneficiaries under-utilize the other significant parts of the total cost of malpractice insurance, and thus these other elements were over-reimbursed under the utilization method—just as the predominant risk-of-loss element was under-utilized and over-reimbursed by the utilization method. The rulemaking record of the 1979 rule indicated that, next to loss coverage, claims handling expense is the second largest component of malpractice premiums. This expense tends to increase with the number of claims filed rather than with their amount. Because the Westat Study confirmed our belief that Medicare patients filed relatively fewer claims than non-Medicare patients, we believe that this element was over-reimbursed by the utilization method. The same conclusion applies to the costs of legal defense of malpractice litigation insofar as Medicare claimants likely do not litigate their relatively small claims. As to the remaining purely administrative costs incurred in relation to the incidence of claims, Westat's finding that Medicare patients submit and are paid relatively fewer claims suggests that these services are under-utilized as well. (However, we are specifically requesting that any available information or statistical data about the frequency of malpractice claims made by Medicare or Medicaid patients or the size of awards to those patients be submitted during the comment period. We would specifically appreciate receiving any information available from insurance companies or provider organizations, as well as from hospital

or SNFs that may have been required to compile malpractice loss data involving Medicare or Medicaid patients.) Since the profit margin built into the premium is based in large part, if not entirely, upon the expected cost of all of the above items, we conclude that all elements of the total cost of malpractice insurance are under-utilized by Medicare beneficiaries, and thus were over-reimbursed by the utilization method.

We do not agree with the suggestion made in some of the comments received on the March 15, 1979 proposed rule that we should adopt an elaborate and complex apportionment scheme for this one item of overhead costs (that is, malpractice insurance costs). Some commenters apparently believed that *each element of each provider's* malpractice insurance costs should be apportioned separately. We believe that this scheme would be administratively infeasible for both HCFA and providers. Also, it would be too burdensome for providers, a fact shown by the nearly unanimous provider complaints made about the recordkeeping and accounting complexities inherent in our original proposal to conduct an actuarial study for providers with no loss experience.

Finally, some hospitals have argued that loss experience is an improper basis for apportioning malpractice insurance costs because insurance is designed to protect the provider from catastrophic loss and thus insurance benefits all classes of patients regardless of whether actual losses are ever incurred. Although we recognize that malpractice insurance benefits all of a provider's patients, section 1861(v)(1)(A) of the Act requires us to apportion costs between Medicare beneficiaries and all other kinds of patients. Because the risk of loss is the major component of the cost of malpractice insurance, a provider's claims-loss history largely determines the current cost of its malpractice insurance against future losses. We believe that the claims-paid formula guarantees that Medicare will reimburse only that portion of a provider's actual malpractice insurance costs that is attributable directly to Medicare patients.

F. The National Medicare Loss Ratio

Some providers have contended that the current national ratio of malpractice losses paid to Medicare patients compared to losses paid to all patients, applicable under the malpractice rule to providers with no loss experience, is inaccurate. We believe that the current national ratio was based on the best data available at the time the

malpractice rule was promulgated. But, as discussed above, because we now have more recent and refined data, we are proposing to update and increase the Medicare national ratio for hospitals.

The current national ratio of 5.1 percent was based on Westat's analysis of the dollars in malpractice claims paid to Medicare beneficiaries compared to total dollars in paid malpractice claims. Because these were the best data available at the time, we established the national ratio at 5.1 percent.

The malpractice rule provides that HCFA will calculate the national ratio periodically based on the most recent departmental closed claim study. As explained above, we believe that the HCRIS data show that the Medicare national ratio for hospitals should be revised and increased. Thus, we are proposing to increase the national ratio for hospitals to 11.6 percent. Also, because the HCRIS data are derived primarily from settled hospital cost reports instead of a closed claim study, we are proposing to amend the malpractice rule to provide for periodic recalculation of the national ratio on the basis of actual cost report data.

G. Alternatives

In the Regulatory Impact Analysis section of this preamble, we discuss our consideration of four alternatives to this proposed rule. In addition to incorporating by reference in this part of the preamble the entirety of the discussion of alternatives in the Regulatory Impact Analysis section, we are specifically inviting comments on those alternatives.

H. The Malpractice Rule Furthers the Statutory Interest in Reimbursing Only Actual Costs Necessary in the Efficient Delivery of Services and in Preventing Cost-Shifting Between Medicare Patients and Non-Medicare Patients

Some providers have argued that the malpractice rule is arbitrary because it may yield "bizarre reimbursement results," and therefore inappropriately shifts the burden of paying costs from the Medicare program to non-Medicare patients in contravention of section 1861(v)(1)(A) of the Act. For example, suppose a hospital pays \$100,000 annually for the cost of malpractice insurance and has paid only one malpractice loss during the previous five years. If the claimant were a Medicare patient, the program would reimburse the provider for the full \$100,000. However, if the loss had been paid to a non-Medicare patient, the provider would receive no Medicare reimbursement for its cost of

malpractice insurance for that year. Finally, if the provider paid no malpractice claims during the five-year period, Medicare would pay, under the current national ratio, \$5,100. Under this proposed rule, the first two results would be the same. However, if the provider paid no malpractice claim during the five-year period, Medicare would, under this proposal, reimburse the hospital \$11,600.

We believe that the view that the malpractice rule produces "bizarre reimbursement results" rest on a misinterpretation of the Medicare statute. There are two reasons why the payments produced by the malpractice rule do not detract from the validity of the rule. First, we agree with the holding of the District of Columbia Circuit in the *Boswell* decision that an example like the one described above is "only an example" that "demonstrates the Malpractice Rule's statistical nature" and in no way undermines the rule's validity. 749 F.2d at 801-802. More specifically, we agree with the following analysis of the Court of Appeals for the District of Columbia Circuit regarding these reimbursement results:

Because malpractice claims may not be frequent enough to reflect at each moment the long-run average for a particular hospital, the Malpractice Rule will in some cases produce *superficially peculiar results*. . . . But in the abstract, the averaging method of the Malpractice Rule will by *definition* result in a fair division of the long-term average Malpractice premiums attributable to Medicare and to non-Medicare patients. *That is a fair formulation of HHS's statutory mandate*. That some hospitals may suffer in the short run—and some, it should be noted, will benefit greatly—does not make the Malpractice Rule invalid. 749 F.2d at 802. (Emphasis added.)

Second, we believe that hypothetical cases can be devised to "prove" a whole range of "facts" about cost apportionment, and that this shows that the use of hypotheticals is ultimately question begging. We could pose hypothetical cases to support our view that the prior utilization method of apportioning malpractice insurance costs was irrational. For example, suppose that two hospitals each had a 50 percent Medicare patient population and, over a period of many years, one hospital paid only 10 percent of its malpractice losses to Medicare patients while 90 percent of the other provider's malpractice losses were paid to Medicare patients.

It is arguably "anomalous" that these two hospitals would be reimbursed the same amount under the utilization method for their malpractice insurance costs even though they consistently paid

malpractice losses to Medicare patients at vastly different rates. We believe that only the assumptions underlying our original adoption of the utilization method would validate such "superficially peculiar results". See, 749 F.2d at 802. That is, these "bizarre" reimbursement results would be justifiable only under the assumption that any disproportionality in favor of non-Medicare patients would be balanced by other overhead costs being apportioned in the program's favor. Otherwise, the cost-shifting prohibition of section 1861(v)(1)(A)(i) of the Act would be contravened. However, because we have determined that this assumption no longer applies to malpractice insurance costs, the issue becomes that of finding an administratively feasible formula that would apportion these costs more accurately. We believe that the malpractice rule accomplishes this result.

I. Program Treatment of Malpractice Insurance Costs Is Consistent With the Apportionment Policy for Other Costs

Section 1861(v)(1)(A) of the Act provides us with broad discretion to promulgate "regulations . . . for [the] determination of the [reasonable] cost of service . . . [by] using different methods in different circumstances." The statute permits us to construct reimbursement methods "on a per diem, per unit, per capita or other basis."

We believe that nothing in the language or legislative history of section 1861(v)(1)(A) of the Act requires that the apportionment of malpractice insurance costs include a utilization factor. The utilization method of apportioning G & A costs is authorized explicitly by section 1861(v)(1)(A) of the the Act. But that provision allows the Secretary to use "different methods in different circumstances" and to construct such methods on any "other basis" that satisfies the substantive requirements imposed by section 1861(v)(1)(A) of the Act. Thus, we are statutorily authorized to directly apportion malpractice costs and to eschew the use of any utilization factor for the apportionment of these costs. We believe that since the malpractice rule satisfies all statutory requirements, the rule is authorized by section 1861(v)(1)(A) of the Act.

We do not believe that a decision to directly apportion the costs of malpractice insurance means that other G & A costs attributable to provider participation in the program also must be directly apportioned. Under section 1861(v)(1)(A) of the Act, we have broad discretion to determine how to reimburse reasonable costs incurred by

providers. We have determined that the program was bearing a disproportionate amount of the cost of malpractice insurance and that this disproportionality was great enough to distort the presumed balance between Medicare and non-Medicare costs in the G & A cost center.

We also wish to point out that we are not aware of any other class of G & A costs that involves a disproportionality significant enough to threaten the balance of the G & A cost center. For example, costs attributable to provider participation in the program would be balanced by other G & A costs incurred primarily for the care of non-Medicare patients. We believe that the decision to directly apportion only malpractice costs is well-founded and statutorily authorized.

J. Retroactivity

We believe for several reasons that it would be appropriate to apply the provisions of this proposed rule retroactively. We do not believe that retroactive application would have any significant adverse impact on providers. Furthermore, even if there were any negative effects, we are convinced that these effects are greatly outweighed by the unnecessary drain on the Medicare Trust Funds that result from a return to the utilization method of apportioning malpractice costs. In particular, we believe that reinstatement of the utilization method would violate section 1861(v)(1)(A) of the Act because the result would be the payment of costs not necessary in the efficient delivery of services and cost-shifting between Medicare patients and non-Medicare patients. Under section 1861(v)(1)(A) of the Act, we may make suitable retroactive corrective adjustments if the aggregate reimbursement produced by the methods of determining costs proves to be inadequate or excessive. We believe that the use of the prior method results in excessive reimbursement.

Four basic reasons support our belief that any negative impact of the retroactive application of this proposed rule would be outweighed by the pernicious effects of reinstating the utilization method. First, retroactive application would not result in an abrupt departure from earlier policies. This proposed rule and the current malpractice rule—the only rule in effect for apportionment of malpractice insurance costs for cost reporting periods beginning on or after July 1, 1979—are very similar to one another. The proposed regulations, like the current malpractice rule, would reimburse providers with loss

experience during the applicable five-year period in accordance with the claims-paid formula. Similarly, providers with no loss experience during the five-year period would continue to have their malpractice insurance costs apportioned in accordance with the applicable national ratio of claims paid to Medicare patients compared to claims paid to all patients. The only difference is that hospitals would be subject to the increased national ratio of 11.6 percent instead of the current national ratio of 5.1 percent.

In addition to not departing significantly from earlier policies, retroactive application of this proposed rule would merely constitute an attempt to fill a void in an unsettled area of the law. Several courts have invalidated the malpractice rule on grounds that call into question whether that rule could still be applied within the jurisdiction of those courts. As explained above, these court decisions account partially for our reconsideration of current policy. Yet the HCRIIS data, together with the other considerations discussed above, leave us convinced that the prior method was improper and that the claims-paid formula should be retained for providers with loss experience while the national ratio should be increased for hospitals with no loss experience. Thus, our reconsideration and revision of current policy clearly is aimed at filling a void in an unsettled area of law instead of constituting an attempt to establish a significantly different apportionment policy.

Second, retroactive application of this proposed rule would not undermine any reliance interests of providers. In general, we believe that the expectations of providers are tempered by the knowledge that participation in the Medicare program involves them in a highly regulated field in which occasional changes are necessary to carry out better the purposes of the program. Moreover, providers have known since the inception of the Medicare program that we have broad discretion pursuant to section 1861(v)(1)(A) of the Act to promulgate regulations specifying reasonable cost reimbursement methodologies. In this case, providers have known since March 15, 1979 (the date on which the proposed malpractice rule was issued for public comment) that we believe that the prior method of apportioning malpractice insurance costs over-reimbursed those costs. And because the malpractice rule, published on June 1, 1979 and applicable to cost reporting periods beginning on or after July 1, 1979, was established prospectively and published in advance

of applicable cost reporting periods, providers knew before the beginning of their respective cost reporting periods that their malpractice insurance costs would be subject to direct apportionment in lieu of apportionment under the utilization method. Thus, because no provider could have reasonably expected to continue using the utilization method after July 1, 1979, the proposed rule would not impair any provider's interest in, or reliance on, the former utilization method.

Third, retroactive application of this proposed rule would not unduly burden providers. As explained above, the malpractice rule was adopted because we determined that Medicare was bearing a disproportionate share of the cost of malpractice insurance. The retention of the claims-paid formula for providers with loss experience would ensure against the recurrence of this disproportionality while the increased national ratio would base Medicare payment to hospitals with no loss experience on more refined data. Since retroactive application of this proposed rule would exact no financial penalty from providers and would be a result clearly foreshadowed by the adoption of the malpractice rule on June 1, 1979, we do not believe that providers would be unduly burdened by this mode of implementation of the proposed rule.

Fourth, retroactive application of the proposed rule would further the statutory interests of both reimbursing only those costs necessary in the efficient delivery of services and preventing cost-shifting between Medicare patients and non-Medicare patients. Our determination that the utilization method caused the program to pay a disproportionate share of malpractice insurance costs is predicated on a finding that the utilization method led to cost-shifting in favor of non-Medicare patients. By directly apportioning malpractice insurance costs through claims loss experience, a methodology is available to better ensure that the program pays only reasonable costs incurred on behalf of Medicare beneficiaries, and that costs are not shifted in favor of or against Medicare beneficiaries.

II. Summary of Proposed Changes

Section 405.452(a)(1)(ii) provides that the national ratio of malpractice insurance awards paid to Medicare beneficiaries to malpractice insurance awards paid to all patients is to be calculated periodically based on the most recent "departmental closed claim study". We are proposing to establish a procedural mechanism that will enable us to calculate the ratio periodically

based on actual cost report data instead of on a closed claim study.

We also propose to retain the claims-paid formula, which, under § 405.452(a)(1)(ii), apportions the malpractice insurance costs of providers with loss experience during the current or four preceding cost reporting periods on the basis of their claims paid to Medicare patients compared to claims paid to all patients. In addition, we propose to retain the national ratio, which, under § 405.452(a)(1)(ii), governs the apportionment of malpractice costs for providers with no loss experience during the applicable five year period. However, we would update and increase the national ratio for hospitals without the requisite loss experience. Based on our analysis of cost report data submitted by hospitals for cost reporting periods ending on or after January 1, 1978 through periods ending on September 29, 1983, we propose to increase the national ratio for hospitals to 11.6 percent.

Subject to our rules of administrative finality and reopening (§§ 405.1801, 405.1885, and 405.1877), we propose to apply the increased national ratio retroactively to hospitals. To receive additional reimbursement, the hospital would submit to its current intermediary a claim for the higher percentage, with adequate supporting documentation for each applicable cost reporting period.

We propose that, upon receiving a request, we would adjust a hospital's Medicare payment for a cost report that reflects payment, or a request for payment, for malpractice insurance costs on a national ratio basis, and, in addition, is either—

- (a) Currently being appealed administratively or to a court; or
- (b) Has not been closed for three years or more.

Any retroactive payment made under the increased national ratio to hospitals subject to the prospective payment system would have limited impact on their prospective payment rates. Unless a prospective payment hospital were to receive a retroactive payment for its "base year", there would be no effect on the hospital's prospective payment rates. If a prospective payment hospital were to receive a retroactive payment for its base year, then we would adjust only the hospital-specific portion of the prospective payment rate (see § 412.72 of the regulations, formerly § 405.474(b)(3), which was redesignated on March 28, 1985 (50 FR 12740)). The hospital's revised base year costs would not be used to recalculate the hospital-specific portion as determined for fiscal years beginning before the date of the

revision. (For a full explanation of why the hospital-specific portion of a hospital's prospective payment rate is not subject to retroactive revision, please refer to 49 FR 251; January 3, 1984.)

III. Regulatory Impact Analysis

A. Introduction

Executive Order 12291 (E.O. 12291) requires us to prepare and publish an initial regulatory impact analysis for any proposed rule that is likely to result in: (1) An annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. In addition, the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 to 612) requires us to prepare and publish an initial regulatory flexibility analysis for any proposed rule unless the Secretary certifies that the rule would not have a significant economic impact on a substantial number of small entities.

In developing this proposed rule, we have considered several alternatives, including the alternative favored by many providers of apportioning malpractice insurance costs based on Medicare utilization. The difference between the cost of that alternative, in terms of Medicare program expenditures, and the cost of the alternative we are proposing is greater than \$100 million. In addition, we treat all hospitals and SNFs as small entities under the RFA, and any of the alternatives discussed below would have a significant economic impact on a substantial number of those providers. Finally, it is our policy to voluntarily perform regulatory impact analyses and regulatory flexibility analyses for rules that will have a substantial and controversial economic impact, even if the rule would not otherwise require one.

For the foregoing reasons, we have determined that both a regulatory impact analysis under E.O. 12291 and a regulatory flexibility analysis under the RFA should be included in this proposed rule. This section, in combination with the other sections of this preamble, constitutes an analysis that meets the combined requirements of both E.O. 12291 and the RFA.

B. Affected Entities

This proposal would directly affect all the hospitals and SNFs currently participating in the Medicare program. It would significantly increase the amounts paid by Medicare for the costs of malpractice insurance to hospitals that have no malpractice losses during the applicable period. In addition, it would affect program payments under the Medicaid and Maternal and Child Health programs for those hospitals and SNFs that are paid under those programs on the basis of Medicare principles because many State Medicaid agencies pay for hospital and SNF services based on Medicare practices.

We expect these proposed changes also would have some effect on self-insurance groups, since these organizations are primarily, sometimes solely, involved with malpractice liability. However, we do not expect these proposals would significantly affect the major commercial insurers, since Medicare's payment practices do not seem to be a major consideration in their premium setting.

C. Anticipated Outcomes

1. Prospective Application

The revised national ratio we are proposing would be applied prospectively to several different situations.

- For the approximately 5400 hospitals under the prospective payment system, malpractice insurance costs are included among the operating costs of inpatient hospital services, which are paid for under the prospective payment rates (§ 412.2(c)). During the three-year transition period, the prospective payment rates consist of a blended rate, as described in § 412.70, consisting of the applicable "Federal rates" and "hospital-specific rates." We propose a limited prospective adjustment of the hospital-specific rates established under § 412.73, if the hospital received a retroactive payments under the revised national ratio for its "base year." Any adjustment would apply only to the hospital's cost reporting period beginning on or after the date of that revision. We estimate that this prospective adjustment of the hospital-specific rates would increase payment under the prospective payment system by about \$5 million. We are not proposing to increase the Federal rates, established under § 412.63, to take the increased national ratio into account.

- Since the proposed new national ratio would apply to costs paid on a reasonable cost basis, malpractice insurance costs related to outpatient services furnished by hospitals

participating in the prospective payment system also would be paid at a higher level. We are not able to estimate how much program expenditures would increase for these costs.

- The new national ratio for hospitals would affect more than 1200 hospitals excluded from the prospective payment system, and, in addition, more than 1200 excluded units that are part of hospitals subject to the prospective payment system. These hospitals and units primarily provide psychiatric and rehabilitation services. Again, the available data do not allow us to estimate how much program expenditures for the malpractice insurance costs of these hospitals and units would increase. However, these hospitals and units account for only about two percent of the Medicare payments for hospital services. Further, we believe that malpractice insurance costs are less than one percent of their total costs. Therefore, we do not expect this regulation to result in a significant increase in program expenditures.

- SNFs without malpractice loss experience would continue to be paid on the basis of a national ratio of 5.1 percent.

2. Retroactive Application

We estimate that retroactive payments using the revised national ratio would result in program expenditures of about \$30 million.

D. Alternatives Considered

1. Continue Current Methodology

If we chose neither to revise the method we use to determine the amount Medicare pays for the cost of malpractice insurance nor to update the national ratio, those issues would continue to be the subject of much litigation. Thus, the impact of this alternative would depend on the relative success of providers in the courts and on the remedies imposed by courts when providers prevailed.

There is a risk that providers may succeed in obtaining court decisions invalidating the malpractice rule and reinstituting application of the former apportionment policy based on Medicare utilization. To apply utilization-based apportionment to all cases appealed to the Provider Reimbursement Review Board (PRRB) and to the courts for cost reporting periods not subject to the prospective payment system would result in estimated program expenditures of about \$200 million.

We have rejected the take-no-action alternative for two reasons. First, we

now have new, more refined data from the HCRIS data base. This data underlies importantly our conclusions that the utilization method over-reimbursed malpractice insurance costs and that the claims-paid formula is a valid apportionment policy for providers with loss experience. However, the HCRIS data show that Medicare beneficiaries in hospitals receive a higher percentage of claims paid than was estimated by the Westat Study. Thus, we believe it is necessary to update and increase the national ratio applicable to hospitals with no loss experience.

Second, we also believe it is necessary to amend the malpractice rule to establish a procedural mechanism for the periodic calculation of the national ratio. We believe that the national ratio should be calculated on the basis of the actual cost report data instead of requiring calculation on the basis of the most recent departmental closed claim study.

2. Reinstate the Utilization Method of Apportionment

We recognize that many providers would prefer us to pay on a utilization-based apportionment method, that is, reintegrating malpractice costs in the G&A cost center and apportioning the costs to the Medicare program based on each provider's Medicare utilization.

This alternative would cost up to \$545 million if applied retroactively to all hospitals for all hospital cost reporting periods beginning on or after July 1, 1979 and before a hospital's entry into the prospective payment system. This estimate assumes that we would not recover the approximately \$60 million that, under the current malpractice insurance rule, we have paid to certain providers for malpractice insurance costs in excess of what they would have received under the utilization method.

This alternative is unacceptable because, as discussed above, we believe that the Medicare program was bearing a disproportionate amount of malpractice insurance costs under the utilization method. We believe that our current apportionment policy satisfies the requirements of section 1861(v)(1)(A) of the Act "by definition." See, 749 F.2d at 802.

If we applied this option prospectively only for hospitals and units excluded from the prospective payment system, it would increase program expenditures somewhat, but not by a substantial amount.

3. Directly Apportion Other Overhead Costs in Addition to Malpractice Insurance Costs

We note that some providers believe that if malpractice insurance costs are to be apportioned directly, then other overhead costs should also be removed from the G & A cost center. The fiscal impact of this alternative would depend upon what other overhead costs were removed from the G & A pool. We lack on the fiscal impact of this alternative information because the different costs in the G & A cost center are not itemized on the providers' cost reports.

We do not believe that there is any reason to apportion directly other overhead costs in the G & A pool. We removed malpractice insurance costs from the G & A cost center because the program was paying a disproportionate amount of these costs, and thus we concluded that the presumed balance between Medicare and non-Medicare costs in the G & A pool was distorted. There is no reason to believe that the program is bearing any other overhead cost at a level disproportionate enough to threaten the presumed balance of the G & A cost center. Specifically, there is no other significant overhead cost that has increased significantly like malpractice insurance costs and that is relatively under-utilized by Medicare patients like malpractice costs.

4. Establish Separate Malpractice Insurance Premiums for Medicare and non-Medicare Patients

Various providers have suggested use of a "separate policies" approach to the apportionment of malpractice insurance costs. In the *Boswell* decision, the District of Columbia Circuit described this alternative as follows:

... Insurance companies could create separate pools of risk for Medicare and non-Medicare patients. This method would soon allow insurance companies to use their extensive experience in evaluating risks to make a more precise estimate of the costs attributable to each set of patients and to charge them difference premiums. Medicare could then reimburse hospitals completely for the premium paid for Medicare patients, and reimburse hospitals not at all for the premiums paid for non-Medicare patients. There would be no cost shifting, and hospitals would be compensated for their actual costs of treating Medicare patients.

The advantages of a scheme of separate policies over the Malpractice Rule are several. First, it moves the risk of statistical fluctuations in claims paid from the hospitals, which are poorly equipped to deal with such risks, to the insurance companies, which exist precisely to absorb such risks. A hospital would be fully reimbursed for a steady premium while its payouts fluctuated, instead of being reimbursed for a potentially

unpredictable percentage of its premiums. Second, this same transfer of risk means insurance companies rather than Medicare will calculate the proper premium for hospitals without extensive claims records. If it proves commercially worthwhile to the insurers to use a more focused measure of risk than a national ratio, they will do so. Finally, it gives insurance companies an incentive to determine more precisely the difference in risks presented by Medicare and non-Medicare patients, just as insurance companies have an incentive to determine how risky various types of drivers are to insure. 749 F.2d at 802.

We have previously considered and rejected this alternative. Section 2163.2B of our Provider Reimbursement Manual provides that we will not recognize commercial insurance or a separate self-insurance fund only for malpractice coverage for Medicare or Medicaid beneficiaries. However, we are willing to reconsider this alternative and specifically invite comments on this alternative.

We believe there are several reasons why the malpractice rule is preferable. First, the availability of the new, refined HCRIS data convinces us that the national ratio is the best means to apportion malpractice insurance costs for providers with no loss experience during the applicable five-year period. This data enables us to calculate precisely the proportion of claims paid to Medicare beneficiaries compared to total losses, and thus to satisfy the requirements of section 1861(v)(1)(A) of the Act.

Second, we believe that the HCRIS data obviates any need for insurance companies to ascertain the precise difference in risks between Medicare and non-Medicare patients. As explained above, HCRIS shows that only 11.6 percent of the total amount of claims are paid to Medicare beneficiaries although Medicare utilization is 40.5 percent of total patient days. Thus, Medicare patients clearly present a much smaller risk than other patients. We believe that the malpractice rule guarantees that providers will be reimbursed for the precise risk presented by Medicare beneficiaries.

Third, we believe that the separate-policies alternative would create inefficient and uneconomic incentives. There is little doubt that the separate-policies alternative would create inefficiencies and incentives to raise premiums for Medicare beneficiaries and to lower premiums for other patients by shifting costs to the program.

A provider reimbursed on a reasonable cost basis would have no incentive to purchase Medicare

malpractice insurance on the most economical basis possible. Further, nothing would prevent the insurer from charging a relatively high premium for Medicare patients and a relatively low one for its non-Medicare patients. The insurer could gain a competitive advantage by keeping its non-Medicare premium as low as possible, and subsidizing its non-Medicare risk by Medicare premiums. As long as the insurer certified that its premiums were appropriate, the burden would be, inappropriately, on Medicare to demonstrate that the premiums were improper or set inaccurately. These problems also exist for self-insured providers.

Fourth, we believe that the separate-policies approach would involve much higher administrative costs than our current policy. Higher administrative costs would result because the Medicare program would be forced to verify the validity of a premium applicable only to Medicare patients. However, where the premium is applicable both to Medicare and non-Medicare patients, its validity is generally assured by its applicability throughout the marketplace. Therefore, if we were to adopt a separate policies approach, we would lose the protection provided by a free competitive marketplace.

E. Conclusion

In summary, we have concluded that our proposal would substantially benefit both providers and the Medicare program. It would preserve the essential features of a policy that satisfies all applicable statutory requirements and that is necessary for the sound management of the program and the Medicare Trust Funds. The proposal would benefit providers who have been disadvantaged by the current national ratio. In view of the statutory requirements and the objectives of the Medicare program, this is the most supportable and cost-effective alternative available.

F. Paperwork Reduction Act

These proposed changes would not impose information collection

requirements. Consequently, they need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 through 3511).

IV. Response to Comments

Because of the large number of items of correspondence that we receive on proposed regulations, we cannot acknowledge or respond to them individually. However, we will consider all comments received timely and, if we proceed with a final rule, we will respond to those comments in the preamble of that rule.

V. List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Health facilities, Health maintenance organizations (HMO), Health professions, Kidney diseases, Laboratories, Medicare, Malpractice insurance, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 405 Subpart D would be amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart D—Principles of Reimbursement for Providers, Outpatient Maintenance Dialysis, and Services by Hospital-Based Physicians

1. The authority citation for Part 405, Subpart D continues to read as follows:

Authority: Secs. 1102, 1814(b), 1815, 1833(a), 1861(v), 1871, 1881, 1886 and 1887 of the Social Security Act as amended (42 U.S.C. 1302, 1395f(b), 1395g, 1395l(a), 1395x(v), 1395hh, 1395rr, 1395ww, and 1395xx).

2. Section 405.452 is amended by revising paragraph (a)(1)(ii) to read as follows:

§ 405.452 Determination of cost of services to beneficiaries.

- (a) Principle. * * *
 - (1) Departmental method. * * *
 - (ii) Exception: Malpractice insurance.
 - (A) Malpractice insurance premiums and self-insurance fund contributions.
- For cost reporting periods beginning on

or after July 1, 1979, costs of malpractice insurance premiums and self-insurance fund contributions must be separately accumulated and directly apportioned to Medicare. The apportionment must be based on the dollar ratio of the hospitals' or SNF's Medicare paid malpractice losses to its total paid malpractice losses for the current cost reporting period and the preceding 4-year period. If a hospital or SNF has no malpractice loss experience for the 5-year period, the costs of malpractice insurance premiums or self-insurance fund contributions must be apportioned to Medicare based on the national ratio of malpractice losses paid to Medicare beneficiaries compared to malpractice losses paid to all patients. HCFA calculates this ratio periodically based on actual cost report data, and, if a change in the ratio is justified, HCFA will—

(1) Publish a notice in the *Federal Register* describing the proposed changes for public comment; and

(2) In a subsequent *Federal Register* notice, issue the new ratio and respond to comments received.

(B) Allowable uninsured malpractice losses and related direct costs.

If a hospital or SNF pays allowable uninsured malpractice losses to or on behalf of Medicare beneficiaries, either through allowable deductible or coinsurance provisions, or as a result of an award in excess of reasonable coverage limits, or as a governmental provider, those losses and related direct costs must be directly assigned to Medicare for reimbursement.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: May 17, 1985.

Carolyn K. Davis,
Administrator, Health Care Financing Administration.

Approved: May 24, 1985.

Margaret M. Heckler,
Secretary.

[FR Doc. 85-14520 Filed 6-13-85; 10:50 am]

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S.J. Res. 93/Pub. L. 99-48

To designate the month of May 1985 as "Better Hearing and Speech Month". (June 12, 1985; 99 Stat. 86) Price: \$1.00

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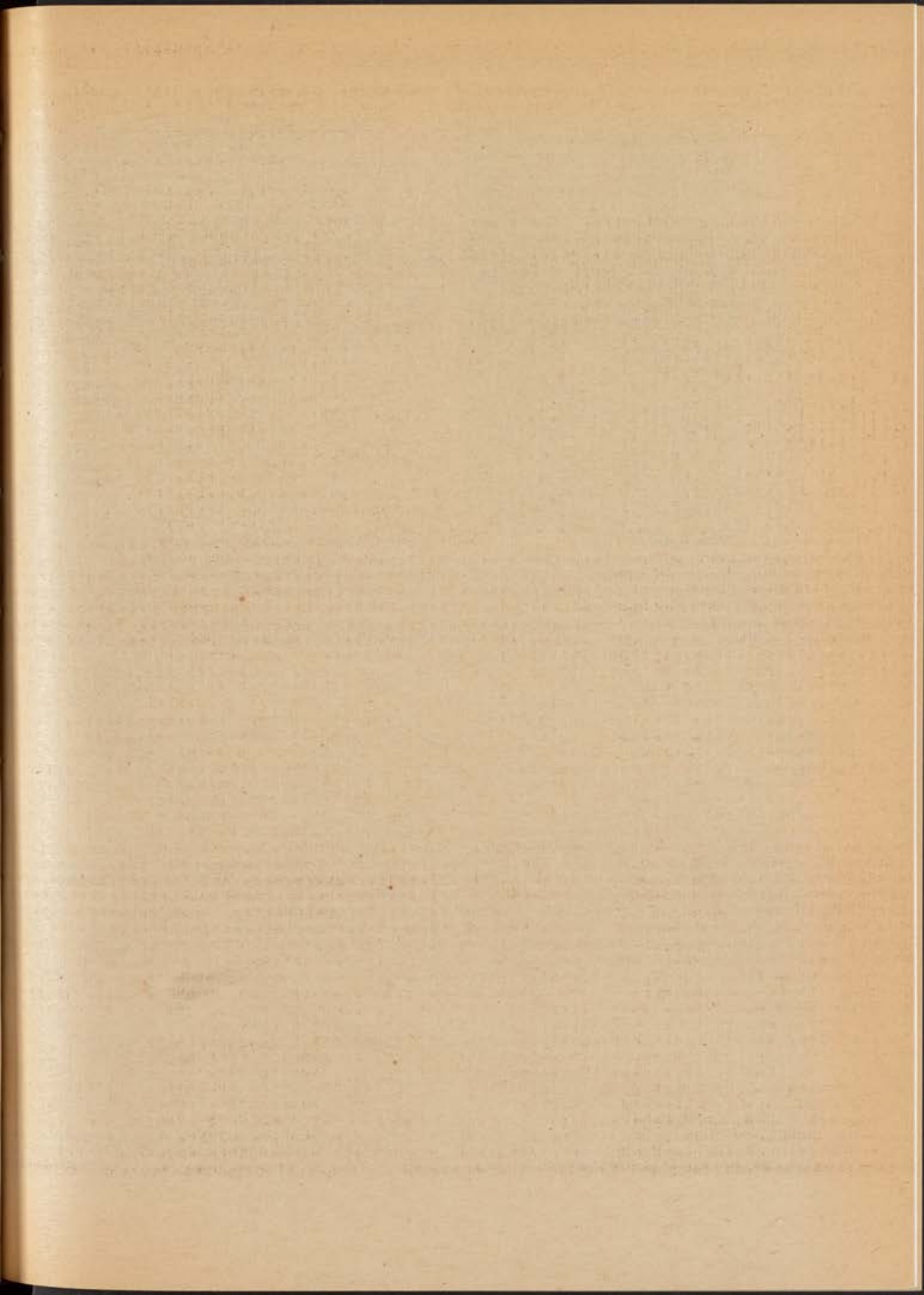
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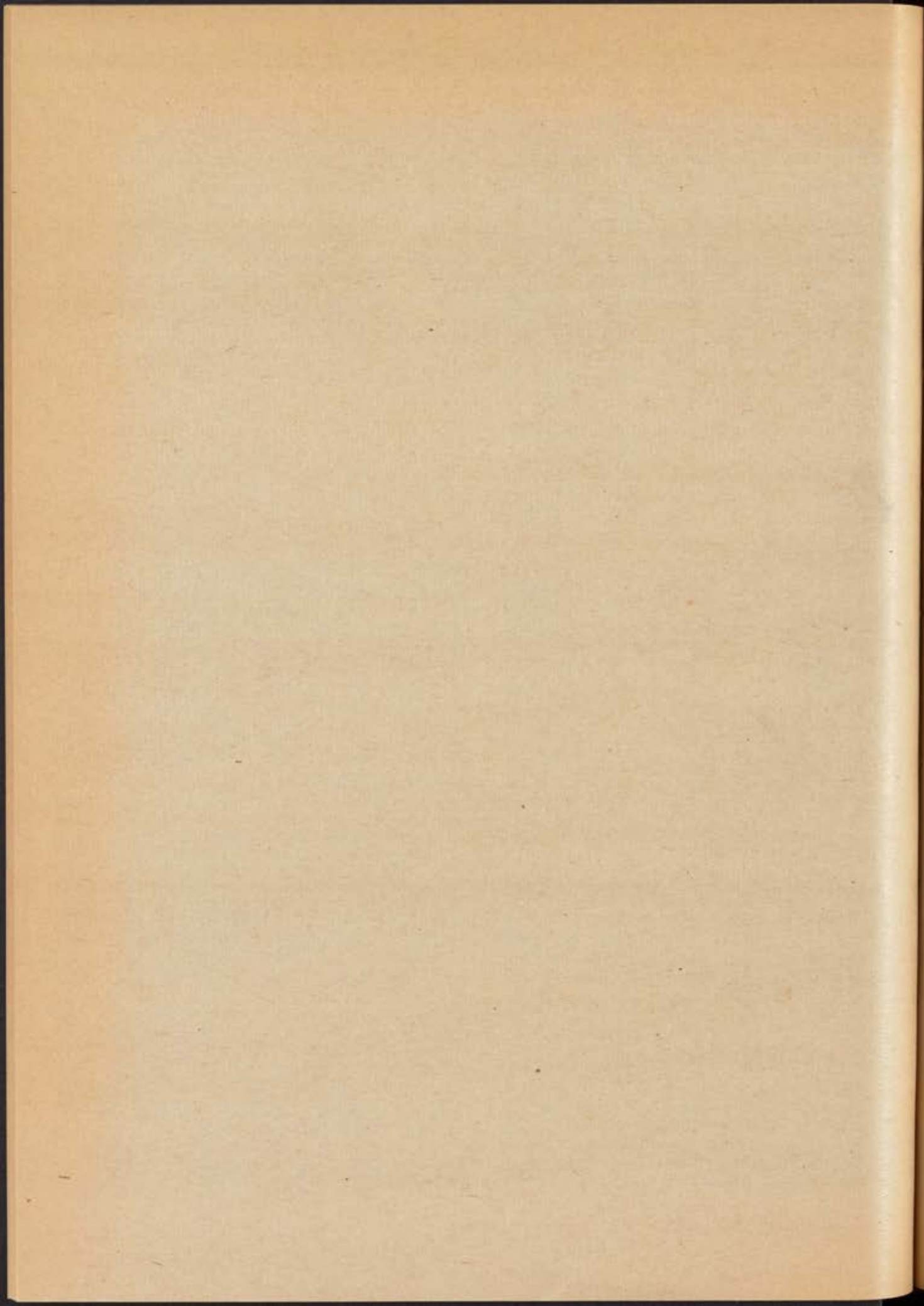
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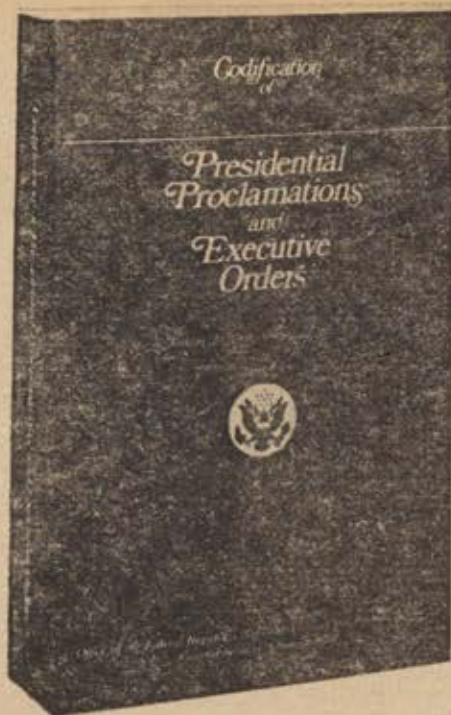
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